



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
ADMINISTRATIVE COMPLAINT**

August 10, 2023

Office for Civil Rights
U.S. Department of Education
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PRELIMINARY STATEMENT

1. This is a complaint brought by Matthew and Marie Moe, the parents of Margo Moe, a student at Fort Worth Academy of Fine Arts (“FWAFA”) in Fort Worth, Texas. Margo identifies as transgender and non-binary and is an accomplished singer and performer. Margo has a soprano vocal range and feels most comfortable and true to their gender identity in either gender-neutral or female groups.

2. FWAFA has two prestigious choirs: the Texas Boys Choir and the Singing Girls of Texas. Margo was invited to join the Texas Boys Choir, but, due to their gender identity and vocal range, wished to join the Singing Girls of Texas.

3. After Margo received preliminary support from the Singing Girls of Texas director and started the audition process to join that choir, FWAFA administration halted the audition process to allow the school board to weigh in on choir eligibility rules.

4. Ultimately, the school board voted to sort students into the Texas Boys Choir and the Singing Girls of Texas based exclusively on their sex assigned at birth, with no consideration of gender identity, vocal range, vocal quality, or the input of the choral directors. As a result, Margo, and all transgender and non-binary students at FWAFA, will be permanently barred from participating in the choir that aligns with their gender identity. Instead, these students may only join the choir that aligns with the sex listed on their original, unaltered birth certificate, regardless of their gender identity or vocal range.

5. School board members also made anti-LGBTQIA+ comments, issued an inflammatory community survey, and allowed a hostile, anti-LGBTQIA+ atmosphere to take hold in the school.

6. Margo now feels stigmatized, ostracized, and no longer welcome as a part of the FWAFA community. They are also now deprived of the opportunity to participate in a prestigious, rigorous choir experience that would advance their educational and career aspirations.

7. The board's new choir eligibility policy is in clear violation of Title IX of the Educational Amendments of 1972 and its implementing regulations.

PARTIES

8. Marie and Matthew Moe are the parents of Margo Moe. They can be contacted through the undersigned legal counsel.

9. This complaint is against Fort Worth Academy of Fine Arts ("FWAFA") and its governing body, the Texas Center of Arts and Academics.

JURISDICTION

10. This complaint concerns FWAFAs and the Texas Center of Arts and Academics' sex-based discrimination in administering a federally funded education program.

11. FWAFAs and the Texas Center of Arts and Academics accept funding from the federal government.

12. The Department of Education's Office for Civil Rights is responsible for ensuring that educational programs receiving departmental funding comply with Title IX, and for investigating complaints of unlawful discrimination in violation of Title IX.

13. This complaint is timely because it is filed within 180 days of the discriminatory conduct. This complaint also raises concerns about a discriminatory written policy of FWAFAs that is scheduled to be implemented in the upcoming academic year.

14. Margo and their family have not sought relief from any other agency.

FACTUAL BACKGROUND

I. Margo Seeks Membership in the Choir That Aligns With Their Gender Identity

15. Margo is a student at FWAFAs and is an accomplished singer and performer. Margo is transgender and non-binary. While Margo enrolled at FWAFAs using a male gender marker, they use they/them pronouns and feel most comfortable and true to their gender identity in either gender-neutral or female groups. They sing soprano, which means that their vocal range aligns with the Singing Girls of Texas and does not fit within the typical range for the Texas Boys Choir. Therefore, to live in alignment with their true self and be the best musician that they can be, it is imperative that Margo be allowed the opportunity to participate in the Singing Girls of Texas.

16. When Margo initially enrolled at FWAF, they were given the opportunity to join the Texas Boys Choir. However, participating in that choir would not have been compatible with Margo's gender identity or vocal range, and they would have felt very uncomfortable, and risked their vocal health, as a member. As a result, Margo joined a mixed-gender choir class at school. However, this choir class was completely insufficient to fulfill Margo's educational goals. Unlike the Texas Boys Choir and Singing Girls of Texas, Margo's choir class was open enrollment, with no rigorous audition process and no opportunities to perform on tour. Moreover, the vocal instruction that Margo received in choir class is much less thorough and demanding than what they would receive as a member of the Singing Girls of Texas. Finally, that choir class will no longer be offered next school year.

17. So, after a few months, Margo asked the director of the Singing Girls of Texas choir for the opportunity to audition for that choir, which was more closely aligned with their gender identity and soprano vocal range than the Texas Boys Choir, and which would provide more challenging and rigorous vocal instruction than the mixed gender choir class. The director, Kerra Simmons, welcomed Margo to audition and expressed her opinion that Margo would make a valuable addition to the choir. However, she noted in a meeting with Mr. Moe and Margo that the school's administration would likely have to approve Margo's membership in the choir.

18. In March 2023, Margo auditioned for the Singing Girls of Texas and received an invitation for, and participated in, a call-back audition just days later. However, before Margo received their official invitation to join the Singing Girls of Texas, Paul Gravley, the President and CEO of Texas Center of Arts and Academics, attempted to halt the choral audition process. Mr. Gravley was apparently unaware that Margo had already completed their audition at that

time and told the Moes that he had attempted to halt the auditions to give the school board time to determine any gender-based choir eligibility rules.

19. However, once it became clear that Margo had completed their auditions, Mr. Gravley allowed the other students to resume their audition processes. But Mr. Gravley told the Moes that Margo would not be added to the roster of the Singing Girls of Texas until the board could vote on choir eligibility rules.

II. Board of Directors Temporarily Bars Margo from the Singing Girls of Texas and Issues Community Survey

20. On May 9, 2023, the Texas Center of Arts and Academics Board of Directors held a meeting and considered making changes to the eligibility policy of the Texas Boys Choir and the Singing Girls of Texas. The proposed changes would require every choir student to submit an “unaltered” birth certificate and join the choir that corresponds with the sex assigned by that birth certificate.¹ The proposed policy would also change the “existing gender-neutral language to be gendered – like updating ‘singer’ to ‘girl.’”²

21. During this meeting, the Chairman of the Board made discriminatory comments about transgender and non-binary people. Chairman Daniel Bates reportedly stated that the board’s vote: “is that the makeup of the respective choirs will not change in that Texas Boys Choir will be reserved to boys who are biological males and Singing Girls of Texas will refer to girls who are biological females.”³ Mr. Bates also stated that the changes were necessary

¹ Marcheta Fornoff, *Famed Texas Boys Choir Embroiled in Gender Identity Controversy*, Fort Worth Report (May 17, 2023), <https://fortworthreport.org/2023/05/17/famed-texas-boys-choir-embroiled-in-gender-identity-controversy/>.

² *Id.*

³ *Id.*

“because under the current lexicon in our language apparently there is disagreement on what a boy is and what a girl is.”⁴

22. Ultimately, the board voted to adopt the policy on an interim basis, to provide time for the board to issue a survey to stakeholders on the issue before making a final decision.

23. On June 6, 2023, the board emailed FWFAFA parents/guardians, administration, faculty, and staff a link to the survey referenced in the May meeting. The survey contained numerous inflammatory and discriminatory statements and questions, which invalidated the identities of transgender and non-binary students and risked inciting anti-LGBTQIA+ sentiments in the community. For example, the survey’s definitions section noted that “‘boy’ is defined as a biological male and ‘girl’ is defined as a biological female.” The survey asked whether “the effects of indoctrination on our youth are concerning,” whether “[t]eachers should be allowed to teach Radical Gender Theory,” and whether “[h]aving a boy(s) in the Singing Girls of Texas” would have an adverse effect on the choir’s “brand.”⁵

24. After the first board meeting and the survey, Margo felt singled out, ostracized, and stigmatized due to the Chairman’s comments, the discriminatory nature of the survey questions, and the board’s decision to, at least temporarily, keep them from participating in the Singing Girls of Texas.

III. Board of Directors Permanently Bars Margo from the Singing Girls of Texas

25. On June 27, 2023, the Texas Center of Arts and Academics Board of Directors held a second meeting to consider the choir policy. The meeting was targeted by an anti-

⁴ *Id.*

⁵ *See* Survey Excerpts (**Exhibit 1**).

LGBTQIA+ group, which demonstrated in front of the school before the board meeting holding “signs that said ‘Biology not ideology’ and ‘Boys ≠ Girls.’”⁶

26. Two members of the Texas Legislature—who recently voted to ban life-saving medical care for transgender youth in Texas and to prevent transgender college athletes in public schools from joining sports teams that align with their gender identity—also reportedly attended the meeting. They both spoke in support of the proposed policy and further inflamed the anti-LGBTQIA+ sentiment of the meeting. For example, Representative Tony Tinderholt expressed blatant animus toward transgender and non-binary students, indicated that their identities were not appropriate to discuss “in front of children,” and threatened to use his power as a state representative to further target them for discriminatory treatment:

“I’m here today because I’m deeply concerned about the question that’s before this body as to whether a young lady should be allowed to join the boys choir. I think it’s simple. You follow the rules. The answer has to be ‘no’ . . . It’s concerning that we’re even having this discussion, let alone having it in front of children that are here in this room tonight. . . . I’m hoping you do not force my colleagues in the Texas Legislature to expand existing legislation to cover other traditionally sex-segregated extracurricular activities . . . Because if we have to, that’s what we will do. I’m certain that my peers will do that.”⁷

27. On the other hand, the directors of the Singing Girls of Texas and the Texas Boys Choir and both spoke against the policy changes. Kerra Simmons stated that treble choirs, like the Singing Girls of Texas, are typically made up of young women but can also include transgender and non-binary members with the appropriate vocal range—like Margo—and requested that choir membership decisions be left up to the choir directors:

“I believe empowering our young women is important, as is empowering our young non-binary and transgender friends . . . There are children in my ensemble who don’t identify with the word female and that’s OK because they can sing beautifully and

⁶ Marcheta Fornoff, *Texas Boys Choir and Singing Girls of Texas to Require Birth Certificate Before Audition*, Fort Worth Report (June 28, 2023), <https://fortworthreport.org/2023/06/28/texas-boys-choir-and-singing-girls-of-texas-to-require-birth-certificate-before-audition/>.

⁷ *Id.*

healthily in the treble register, and that’s what really matters. There’s a possibility for us to have both at the same time.”⁸

28. Todd Prickett, the artistic director of the Texas Boys Choir, also spoke against the policies and reminded the board of its anti-discrimination obligations:

“Imposing gender roles onto a student based on their sex assigned at birth seems more fitting for a private, parochial school than a public charter school . . . In my opinion, such an imposition is discriminatory and lacks basic compassion. Please remember you do not have to agree with someone in order to be compassionate toward them.”⁹

29. Ultimately, the board voted 4-2 to adopt the policy. As a result, Margo, and all transgender and non-binary students at FWFA, will be permanently barred from participating in the choir that aligns with their gender identity. Instead, these students may only join the choir that aligns with the sex listed on their original, unaltered birth certificate, regardless of their gender identity or vocal range.¹⁰

30. As a result of the board’s vote and the discriminatory and hostile tenor of the board meeting, Margo feels stigmatized, dejected, and no longer welcome as a part of the FWFA community. They are devastated that their school board members voted to keep them from the choir that would allow them to thrive as a non-binary, soprano singer and pursue their career aspirations in vocal performance.

⁸ *Id.*

⁹ *Id.*

¹⁰ It is completely unclear how the board would implement this policy since it is impossible to determine whether someone’s birth certificate is “unaltered” without substantially invading their privacy. When a person receives a new birth certificate, it completely supersedes the old one, which becomes null and void as a matter of law. Therefore, students and their families are under no obligation to provide a school with an “unaltered” birth certificate, or one “entered at or near the time of birth,” especially when doing so would compromise private medical information. Finally, because many students are born intersex, it is also scientifically incorrect to assume that all students have a “biological sex” that is strictly male or female, and it is impossible to determine that for every student. *See What Is Intersex?*, InterAct, <https://interactadvocates.org/faq/>.

ARGUMENT

31. The Board has violated Margo’s right to be free from discrimination under Title IX of the Education Amendments of 1972 by denying them the opportunity to join the Singing Girls of Texas.

32. Title IX prohibits discrimination on the basis of sex in education programs and activities operated by recipients of Federal financial assistance from the U.S. Department of Education. As the Department of Education recognizes, Title IX’s prohibition on discrimination “on the basis of sex” includes discrimination on the basis of gender identity and sexual orientation.¹¹ Further, a March 2021 executive order clarifies “that all students should be guaranteed an educational environment free from discrimination on the basis of sex . . . including discrimination on the basis of sexual orientation or gender identity.”¹²

33. Therefore, denying Margo the ability to join the Singing Girls of Texas exclusively based on Margo’s non-binary gender identity and the sex assigned by their birth certificate constitutes discrimination against them, in violation of Title IX.¹³

¹¹ *Confronting Anti-LGBTQI+ Harassment in Schools*, U.S. Dep’t of Justice, Civil Rights Division and U.S. Dep’t of Education, Office for Civil Rights (June 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-tix-202106.pdf>; Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021).

¹² EO 14,021, *Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity*, 86 Fed. Reg 13,803 (Mar. 11, 2021).

¹³ Similar policies—excluding transgender students from sports teams and restrooms based on their sex assigned at birth—have been struck down by courts across the country. For example, the ACLU sued the first state in the country to ban trans students from participating in sports, and that Idaho law was preliminarily found to be unconstitutional by a federal judge appointed by former President Donald Trump. Following binding precedent, the court held that a bill barring trans athletes from participating in sports was impermissible sex discrimination in violation of the Equal Protection Clause because it has long been established that no government entity may target a particular group of people for mistreatment under the law. *Hecox v. Little - Decision Granting Preliminary Injunction*, American Civil Liberties Union, (Aug. 17, 2020), www.aclu.org/legal-document/hecox-v-little-decision-granting-preliminary-injunction?redirect=legal-document%2Fhecox-v-little-motion-granting-preliminary-injunction. Federal courts of appeal across the country have also held that transgender students in schools have a right, under Title IX and the Equal Protection Clause, to use sex-separated facilities like bathrooms and locker rooms

34. While Title IX’s implementing regulations allow that choruses “may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex,”¹⁴ it is completely impermissible to impose a blanket “girls only” or “boys only” rule, as FWFA has done here. For example, the Office for Civil Rights has found that a school’s girls-only Treble Ensemble constituted discrimination on the basis of sex in violation of Title IX.¹⁵

35. The board’s new choir eligibility policy similarly violates Title IX because it sorts students *exclusively* by their sex assigned at birth and does not consider students’ vocal ranges or quality. For example, Margo will be barred from the Singing Girls of Texas even though their soprano vocal range fits comfortably within that of other members of the Singing Girls of Texas, they have successfully passed the first round of auditions and been invited to a call-back, and the choir’s director has stated that transgender and non-binary students could be successful members of that choir.

36. Further, it is clear that the board’s policy was motivated by anti-LGBTQIA+ animus, as opposed to concerns about vocal range and quality. Concerningly, the board’s recent inflammatory survey questions and public comments, creation of a hostile educational environment, and refusal to treat Margo with the same respect as other students evinces a discriminatory motive for excluding Margo from the choir.

that align with the student’s gender identity. *See, e.g., Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586, 616, 619 (4th Cir. 2020), *as amended* (Aug. 28, 2020), *cert. denied*, No. 20-1163, 2021 WL 2637992 (U.S. June 28, 2021); *Doe by & through Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 530 (3d Cir. 2018); *Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1050–54 (7th Cir. 2017); *Dodds v. United States Dep’t of Educ.*, 845 F.3d 217, 221–22 (6th Cir. 2016).

¹⁴ 34 C.F.R. § 106.34(a)(4).

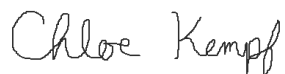
¹⁵ U.S. Dep’t of Education, Office for Civil Rights, *Re: OCR Docket #15-15-1320 (Bay Village City School District)* (2016), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/15151320-a.pdf> (“The requirements to participate in the Treble Ensemble are not based on vocal range or quality such that it would fall under the permissible exception for choruses in the Title IX regulation[.]”).

REMEDIES

37. Margo feels stigmatized and ostracized every day that they are denied access to a choir that aligns with who they are and their vocal range. These feelings have only increased since the board sent an inflammatory and insulting survey and allowed its meetings to devolve into a display of anti-LGBTQIA+ animus, which risks creating a hostile learning environment for transgender and non-binary students at FWAFA.

38. We ask that the board retract its discriminatory, gender-based choir eligibility policy and that the board allow Margo, and all FWAFA students, to audition for, and join, the choir that best aligns with their gender identity and vocal range. We also ask that the board apologize to Margo and work to repair the hostile educational environment that it created through its recent actions.

Sincerely,



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Exhibit 1



TCA+A Board School Survey

Schools, Programs, and Policies

Definitions

As used in this survey, “boy” is defined as a biological male and “girl” is defined as a biological female.

46. Please rate your agreement with each of the following statements:

	1 - Strongly disagree	2 - Disagree	3 - Somewhat disagree	4 - Neutral	5 - Somewhat agree	6 - Agree	7 - Strongly agree
The original Texas Boys Choir, Inc. was renamed the Texas Center for Arts + Academics and the Fort Worth Academy of Fine Arts was chartered primarily to improve education for	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1 -		3 -		5 -		7 -
	Strongly	2 -	Somewhat	4 -	Somewhat	6 -	Strongly
	disagree	Disagree	disagree	Neutral	agree	Agree	agree

the Texas
Boys Choir.

A choir
comprised of
all boys is a
unique form
of choral
artistry.

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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A choir
comprised of
all girls is a
unique form
of choral
artistry.

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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A mixed
choir of boys
and girls is a
unique form
of choral
artistry.

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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TCA+A
should
support a
choir
comprised of
all boys.

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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TCA+A
should
support a
choir
comprised of
all girls.

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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TCA+A
should
support only
a choir
comprised of

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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1 - Strongly disagree 2 - Disagree 3 - Somewhat disagree 4 - Neutral 5 - Somewhat agree 6 - Agree 7 - Strongly agree

boys and girls.

FWAFA is characterized as a place generally free of bullying, shaming, or maligning of students.

It is important to continue the tradition and established brand of the Texas Boys Choir.

47. Rate how each would affect the respective choir's brand:

Significant adverse effect Adverse effect on brand No discernible effect on brand Improve the brand Significantly improve the brand

Having a girl(s) in the Texas Boys Choir

Having a boy(s) in the Singing Girls of Texas

Definitions

As used in this survey, “boy” is defined as a biological male and “girl” is defined as a biological female.

Please rate your level of agreement with each of the following statements.

48. The Singing Girls of Texas has a tradition and an established brand as a choral institution.

Strongly disagree Neither agree nor disagree Strongly agree

49. It is important to continue the tradition and established brand of the Singing Girls of Texas.


Strongly disagree Neither agree nor disagree Strongly agree

50. TCA+A should support a choir exclusively for boys desiring to participate in such a choir.

Strongly disagree Neither agree nor disagree Strongly agree

51. TCA+A should support a choir exclusively for girls desiring to participate in such a choir.

Strongly disagree Neither agree nor disagree Strongly agree



52. The name of the Texas Boys Choir should

- be changed to eliminate the reference to "Boys" regardless of whether one or more members are girls.
- be changed to eliminate the reference to "Boys" only if one or more members are girls.
- remain unchanged regardless of whether one or more members are girls.

53. The name of the Singing Girls of Texas should

- be changed to eliminate the reference to "Girls" regardless of whether one or more members are boys.
- be changed to eliminate the reference to "Girls" only if one or more members are boys.
- remain unchanged regardless of whether one or more members are boys.

Definitions

As used in this survey, "boy" is defined as a biological male and "girl" is defined as a biological female.

54. Please give specifics on what affect, if any, maintaining the traditional boy-only membership of the Texas Boys Choir would have on:

FWAFA
Students

FWAFA
Parents/Guardians

FWAFA
Faculty/Staff

55. Please give specifics on what affect, if any, permitting girls as members of the Texas Boys Choir would have on:

FWAFA
Students

FWAFA
Parents/Guardians

FWAFA
Faculty/Staff

56. Please give specifics on what affect, if any, maintaining the traditional girl only membership of

the Singing Girls of Texas would have on:

FWAFA
Students

FWAFA
Parents/Gu
ardians

FWAFA
Faculty/Sta
ff

57. Please give specifics on what affect, if any, permitting girls as members of the Singing Girls of Texas would have on:

FWAFA
Students

FWAFA
Parents/Gu
ardians

FWAFA
Faculty/Sta
ff

86%

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See how easy it is to create a survey.

TCA+A Board School Survey

School Curriculum & Gender Ideology

Definitions

As used in this survey, “boy” is defined as a biological male and “girl” is defined as a biological female.

Please rate your level of agreement with each of the following statements.

58. Parents have a right to have a say on what their children are taught in school.

Strongly disagree Neither agree nor disagree Strongly agree

59. Schools should be required to publicize their curriculum before the start of the school year.

Strongly disagree Neither agree nor disagree Strongly agree

60. Critical Race Theory (CRT) should be taught in schools.

Strongly disagree Neither agree nor disagree Strongly agree

61. The effects of indoctrination on our youth are concerning to me.

Strongly disagree Neither agree nor disagree Strongly agree

62. Sexual/pornographic content in school libraries is appropriate.

Strongly disagree Neither agree nor disagree Strongly agree

63. Teachers should be allowed to teach Radical Gender Theory.

Strongly disagree Neither agree nor disagree Strongly agree

64. Teachers should be allowed to hide students' decisions regarding gender and sex/sexuality from parents.

Strongly disagree Neither agree nor disagree Strongly agree

65. Teachers should always be truthful to parents regarding a student's gender and sex/sexuality.

Strongly disagree Neither agree nor disagree Strongly agree

66. Teachers should always be truthful to parents regarding a student's mental health.

Strongly disagree Neither agree nor disagree Strongly agree

You have reached the end of the survey. We appreciate your feedback. Please click the "Done" button below to submit your responses.

100%

Prev

Done

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See how easy it is to [create a survey](#).