MEMORANDUM

TO: Kentucky Public Schools
FROM: Annie Laurie Gaylor and Dan Barker
Co-Presidents, Freedom From Religion Foundation
DATE: January 8, 2019
RE: Public school field trips to “Ark Park” would be unconstitutional

We are writing to you on behalf of the Freedom From Religion Foundation and our 31,000 members, including members in your state, to caution public schools in your district about visiting either the Ark Encounter or the Creation Museum in Kentucky. FFRF is a nationwide nonprofit that educates on nontheism and protects the constitutional separation between state and church.

Public schools and public school staff may not constitutionally organize trips to the Ark Encounter or the Creation Museum or any other religious venue. We have addressed this matter in the past through a precautionary memo you may have received in July of 2016.

We are writing again because, unfortunately, Ken Ham, the evangelist who built these two notorious theme parks, continues to encourage public schools to plan field trips to visit the Ark Encounter and the Creation Museum. At the end of November, Ham wrote, “Because the law is on our side, we are working on a way to see if we can help public schools have students visit the Ark. More on this effort will be announced later, but even now, please pray as we work through this. Really, this is a battle over freedom of speech and religion—over the rights guaranteed to us by the First Amendment!”1 Ham is wrong on all counts.

Ham has been clear about the proselytizing nature of this park from the beginning. In an open letter released by Ham shortly before the opening of the Ark Encounter he plainly states his motive behind opening the park:2

"Our motive is to do the King’s business until He comes. And that means preaching the gospel and defending the faith, so that we can reach as many souls as we can...millions of souls will hear the most important message of all...a message of hope from the holy, righteous Judge who, despite our sin, wants us to spend eternity with Him!"

Ham has reinforced this statement repeatedly. In a June 2018 blog post Ham wrote:

"The whole purpose of building these attractions was evangelistic...if we just presented evidence for creation and the flood, there was no point in constructing these venues. I would see no point in having an apologetics ministry like Answers in Genesis if we weren’t proclaiming the gospel of Jesus Christ. AiG is an evangelistic, biblical-authority ministry."3

Though Ham asserts that the law is on his side, this is untrue. Unquestionably, any field trip facilitated by a public school to either attraction would be unconstitutional.


In short, it is unacceptable to expose a captive audience of impressionable students to the overtly religious atmosphere of Ham’s Christian theme parks. *Doe ex rel. Doe v. Elmbrook Sch. Dist.*, 687 F.3d 840, 853 (7th Cir. 2012) (cert denied) (“Regardless of the purpose of school administrators in choosing the location, the sheer religiosity of the space created a likelihood that high school students . . . would perceive a link between church and state.”).

Finally, that any such field trip might be deemed “voluntary” (i.e. students may opt-out of the trip) is irrelevant. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. See generally *Weisman*, 505 U.S. at 596 (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.”); *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) (“Thus the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question….”).

In this country, Ham is free to erect monuments to his bible—those are his only First Amendment rights at issue and he’s exercising them—but public schools are not permitted to expose the children in their charge to religious myths and proselytizing.

In summary, public schools cannot organize trips for students to either the Creation Museum or the Ark Park. Doing so would violate the students’ rights of conscience and the Constitution. Thank you for your attention and for supporting the First Amendment rights of your students and parents, rather than Ham’s attempts to violate them.