

FREEDOM FROM RELIGION *foundation*

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July 13, 2016

SENT VIA EMAIL & U.S. MAIL

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Dr. Stephen L. Pruitt
Commissioner of Education
Kentucky Department of Education
Office of the Commissioner of Education
500 Mero Street, 1st Floor CPT
Frankfort, KY 40601

Re: The Ark Encounter

Dear Dr. Pruitt:

I am writing on behalf of the Freedom From Religion Foundation regarding our July 7, 2016 memorandum concerning the Ark Encounter, a Christian ministry run by creationist, Ken Ham.

It is our understanding that you responded to our memo in your Commissioner's Corner message on July 11, 2016.¹ In your statement, you indicated that it was inappropriate for "outside third parties to dictate field trip selections" and that the Kentucky Department of Education is not responsible for approving or disapproving specific field trip selections. You noted that field trips should be a "direct extension of classroom learning" and should be "directly related to the school curriculum and should seek to maximize student learning by enhancing the classroom experience." Additionally, you pointed out that a field trip destination that is appropriate for high school students might not be appropriate for elementary students.²

After your message appeared in the news,³ Mr. Ham took to social media to say, among other things, "The [FFRF] have [sic] no right to tell schools what excursions they can and can't do thus violating [sic] 1st amendment--that's the schools [sic] decision"⁴ and "public schools can visit [Ark Encounter] for historical/education/recreational reason [sic]."⁵ Mr. Ham is echoing your message with his own spin.

¹ Retrieved at <http://education.ky.gov/CommOfEd/mon/Pages/July-11-2016.aspx>.

² *Id.*

³ Loftus, T. (2016, July 13). Can public schools take field trip to ark park? Retrieved from <http://www.courier-journal.com/story/news/2016/07/12/can-public-schools-take-field-trip-ark-park/87002910/>.

⁴ Mehta, H. (2016, July 13). Ken Ham: FFRF is "bullying" schools by warning them against taking field trips to Ark Encounter. Retrieved from <http://www.patheos.com/blogs/friendlyatheist/2016/07/13/ken-ham-ffrf-is-bullying-schools-by-warning-them-against-taking-field-trips-to-ark-encounter/>.

⁵ *Id.*

First, we would like to point out that we are not “dictat[ing] field trip selections.” Rather, we are explaining what the Constitution requires of public schools: They have a constitutional obligation to ensure that “teachers do not inculcate religion” and are not “injecting religious advocacy into the classroom.” *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971); *Webster v. New Lenox School Dist. No. 122*, 917 F.2d 1004, 1007 (1990).

As you know, the Commissioner of Education has a statutory duty to ensure that Kentucky schools and employees abide by all laws, including the Constitution. *See, e.g.*, Ky. Rev. Stat. §§ 156.010(f); 156.210-240; 156.557 (you “shall be responsible for...Monitoring the management of school districts, including administration and finance, implementation of state laws and regulations, and student performance,” under Ky. Rev. Stat. § 156.010(f)).

Second, Mr. Ham’s stated purpose in founding the Ark Encounter is clear: He intends to use the park to convert visitors to his religion. Under no scenario may public schools expose students to such open and unabashed proselytizing. Given the unequivocal nature of Mr. Ham’s purpose, the age of the students in question is irrelevant; the park is an equally inappropriate destination for elementary students as high-school students. *See 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.”). Taking students on a field trip to a site designed to convert them is no different than taking them on a field trip to church on Sunday morning.

Third, the park teaches religious myth as historical and biological truth, undermining the public education curriculum, goals, and standards. For example, Kentucky educational standards require students to “understand scientific ways of thinking and working and using those methods to solve real-life problems.”⁶ A field trip to the Ark Encounter can only serve to confuse students regarding appropriate methods of scientific thought and ultimately thwart this goal. Such a field trip would therefore be not only unconstitutional, but counter-educational.

We cannot envision a single legitimate way a public school could visit this park. Even if Mr. Ham were not clear about his proselytizing goal, teaching religious stories as factual truth is not permissible in our public schools. Public schools exist to teach, not preach; that is, they can teach *about* religion (if done objectively and fairly), but not preach or suggest religious doctrine as truth. Mr. Ham’s park does the latter. Therefore, a field trip to the Ark Encounter under the guise of a Bible as Literature or World Religions secular course would not be permissible.

⁶ Kentucky’s Learning Goals And Academic Expectations, 2.1. Retrieved at <http://education.ky.gov/curriculum/standards/kyacadstand/Documents/Kentuckys%20Learning%20Goals%20and%20Academic%20Expectations.pdf>.

It would be an egregious abuse of government power to proselytize a captive audience of young, impressionable school children in this manner. We urge you to be proactive and ensure that Kentucky schools refrain from taking children on future field trips to the Ark Encounter by giving them clear written guidance on the matter—guidance that cannot be twisted by Ken Ham to convince public schools to violate students' right of conscience. Please inform us in writing of the steps you are taking to ensure that such constitutional violations do not occur.

Sincerely,



Andrew L. Seidel
Staff Attorney

ALS:dds

cc: Kentucky School Boards Association
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