

# FREEDOM FROM RELIGION *foundation*

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## M E M O R A N D U M

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TO: Kentucky Public Schools  
FROM: Annie Laurie Gaylor and Dan Barker  
Co-Presidents, Freedom From Religion Foundation  
DATE: July 7, 2016  
RE: Public school field trips to “Ark Park” would be unconstitutional

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We are writing to you on behalf of the Freedom From Religion Foundation and our 24,000 members, including members in your state, to caution public schools in your district about visiting a religious “Ark Park” that has opened. FFRF is a nationwide nonprofit that educates on nontheism and protects the constitutional separation between state and church.

The Ark Encounter, recently constructed in Kentucky, is a Christian ministry run by the creationist Ken Ham, who also built the notorious Creation Museum. Ham has been clear about the proselytizing nature of this park from the beginning. In his June 27, 2016 letter entitled, “Our Real Motive for Building Ark Encounter,”<sup>1</sup> he lays out a clear, evangelistic goal:

We are eagerly approaching what I believe will be a historic moment in Christendom. It’s the opening of one of the greatest Christian outreaches of our era: the life-size Noah’s Ark in Northern Kentucky. . . . The [creation] museum and Ark direct people to the Word of God and the gospel of Jesus Christ.

Ham quotes bible verses to further illuminate his motive before finally stating it plainly: “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!”

We are already receiving inquiries from concerned parents that overzealous teachers or principals may mistakenly believe it appropriate to schedule school-related trips to the Ark Encounter, as has happened with the Creation Museum.

This is a precautionary memo to advise that public schools and public school staff may not constitutionally organize trips to Ham’s Ark Park, with its clear religious goal and portrayal of fiction as divine truth, or to the Creation Museum or any other religious venue.

Schools have a constitutional obligation to ensure that their programs “do not inculcate religion.” *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). Taking public school students to a site whose self-professed goal is to convert children to a particular religion and undermine what is taught in

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<sup>1</sup> <http://bit.ly/298EDJO>

public school science and history classrooms would be inappropriate. Public schools may not advance or promote religion. *See generally Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962).

The obligation to remain neutral on religion includes not teaching creationism, intelligent design, or any of their creatively named religious offspring to public school students. *See Edwards v. Aguillard*, 482 U.S. 578 (1987); *McLean v. Ark. Bd. of Educ.*, 529 F.Supp. 1255, 1256 (E.D. Ark. 1982) (holding that “balanced treatment for Creation-Science and Evolution-Science” violates Constitution); *Kitzmiller v. Dover Area Sch. Dist.*, 400 F.Supp. 2d 707 (M.D. Pa. 2005) (ruling that teaching intelligent design is like teaching creationism — unconstitutional). There are also serious constitutional issues with public schools organizing and coordinating funding to a self-proclaimed religious ministry.

In short, it is unacceptable to expose a captive audience of impressionable students to the overtly religious atmosphere of Ham’s Christian theme parks. *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.”).

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 . . .”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“... VMI cannot avoid Establishment Clause problems by simply asserting that . . . participation in the supper prayer [is] ‘voluntary.’”).

In this country, Ham is free to erect monuments to his bible, 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.

Enclosed, please also find a copy of FFRF’s “Top 10” brochure, which explains the most common state-church violations in public schools and why schools must avoid them. In the past two years, FFRF has addressed more than 1,300 violations in public schools. We offer this constitutional guide with the hope to see fewer violations in coming years.

Thank you very much for your attention to this memo and for your support of the First Amendment.