

FREEDOM FROM RELIGION *foundation*

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Sent via U.S. Mail and email to sally.skinner@williamstown.kyschools.us, druberg@ortlaw.com

Ms. Sally Skinner
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Don Ruberg
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O'Hara, Ruberg, Taylor, Sloan & Sergent
25 Town Center Blvd., Suite 201
Covington, KY 41017-0411

Re: Williamstown High School and Grant County High School bands performing at Ark Park

Dear Superintendent Skinner and Mr. Ruberg:

I am writing on behalf of the Freedom From Religion Foundation to alert you both to a very serious constitutional violation that occurred in your districts. FFRF is a national non-profit with more than 24,000 members, including members in Kentucky.

It is our understanding that the Williamstown High School and Grant County High School marching bands performed at the ribbon cutting ceremony for the Ark Encounter on Tuesday, July 5.¹ Photos show band members marching by the ark wearing t-shirts that bear the Ark Encounter logo on the front and back and the names of two bands: the Williamstown High School Marching Band and the Grant County High School Marching Band. Many appear to be using the marching band equipment that belongs to the school: sousaphones, flags, banners naming the band, etc.

We recognize that this was before you had received our July 7 memo warning public schools that organizing trips for students to a park that has a professed evangelical mission is illegal.

The Ark Encounter 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 the ark park from the beginning. In his June 27, 2016 letter entitled, "Our Real Motive for Building Ark Encounter,"² 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

¹ See photo #8, <http://www.nbcnews.com/slideshow/life-sized-noah-s-ark-reveal-public-kentucky-n604386> copy enclosed. Photo by John Minchillo for AP. The bands can also be seen in several videos and behind the ceremonial ribbon cutting., after which they began to play again apparently.

² <http://bit.ly/298EDJO>

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!”

Public schools and public school staff may not constitutionally organize trips to a park that has a clear religious goal and portrays fiction as divine truth.

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 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—this includes teaching religious myths as scientific truth. *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 helping a private religious ministry to launch a park meant to convert people and collect a fair bit of money in the process.

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 this trip might have been considered “voluntary” 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.**

The WHS “Band of Spirit” Facebook page also shared Ken Ham’s broadcast of the Ark Encounter ribbon cutting ceremony, which is problematic for similar reasons.

We look for your written assurances that no further WIS or GCS staff will organize, promote, sponsor, or otherwise facilitate trips to the ark park or Ham’s religious agenda. Students are free to travel to the park, but schools cannot play a role. We look forward to your prompt written response that such violations will not occur again.

Sincerely,



Andrew L. Seidel
Staff Attorney
Freedom From Religion Foundation



