

**BEFORE THE IDAHO TRANSPORTATION DEPARTMENT**

ALBERT PETE VEENSTRA,	)	
	)	OAH Case No.25-290-32
Petitioner,	)	
	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
v.	)	<b>OF LAW, AND PRELIMINARY ORDER</b>
	)	
IDAHO TRANSPORTATION	)	
DEPARTMENT,	)	
	)	
Respondent.	)	
	)	

A remote hearing was held in this matter via Zoom on May 7, 2025. Petitioner Albert Veenstra appeared and testified. Idaho Transportation Department (“ITD”) did not attend but submitted a hearing packet of written evidence in advance of the hearing.

Based upon the administrative record and the testimony provided at hearing, the Hearing Officer makes the following Findings of Fact and Conclusions of Law pursuant to Idaho Code section 49-409(1), IDAPA 39.02.60.202.08(b), and IDAPA 62.01.01.252.01(d).

**PRELIMINARY MATTERS**

1. All exhibits were admitted in these proceedings.
2. Mr. Veenstra requested that this Hearing Officer default ITD because ITD did not send a representative to attend the hearing. *See* Recording at 3:10-13 (asking that ITD’s non-appearance results in Mr. Veenstra being successful in his appeal). The request misunderstands the rule related to defaults, which still requires findings on the record as it stands. IDAPA 62.01.01.425-426. Here, ITD submitted an administrative packet, which contained the information related to its position in these proceedings and Mr. Veenstra has the burden of proof. *See* ITD Exhibits, IDAPA 62.01.01.477. For that reason, there was no need to issue a Notice of Intent to Default against ITD because ITD’s position was submitted prior to the hearing and it was Mr.

Veenstra's burden to counter that position. The Hearing Officer exercised her discretion and deemed a Notice of Intent to Default was not necessary at this stage in the proceedings.

3. Next, Mr. Veenstra raised several concerns regarding the constitutionality of ITD's regulations. *See* Recording at 6:20-6:33, 16:33-17:06. The Idaho Rules of Administrative Procedure state that "[a] presiding officer in a contested case has no authority to declare a statute unconstitutional." IDAPA 62.01.01.253. It further states that "[a] presiding officer, other than the agency head, does not have the authority to consider and decide such issues [related to administrative rules of the agency] except upon express written grant of authority by the agency head." IDAPA 62.01.01.254. Therefore, this Hearing Officer has no authority – delegated or otherwise – to rule on the constitutionality of ITD's statutes or rules in these proceedings and will not do so.

4. Following the evidentiary proceedings on May 7, 2025, a request was made to ITD to supplement the record with Mr. Veenstra's original personalized license plate application for "MUFFLVR," which Mr. Veenstra argues will clearly show his stated meaning for "MUFFLVR" is not offensive. *See May 7, 2025, email Re: Veenstra v ITD - Administrative Hearing - May 7 at 2 pm MT.* On May 22, 2025, ITD supplemented the record and demonstrated that on February 27, 2025, ITD issued a License Plate Cancellation Notification to Mr. Veenstra's requested license plate "MUFFLVR" despite the meaning entered by Mr. Veenstra on his application. After further review of Mr. Veenstra's plate order for "MUFFLVR," ITD discovered the meaning that was entered by Mr. Veenstra is "muffler mechanic welder installer." *See May 22, 2025, email RE: Veenstra v ITD - Request to Supplement the Record.* This email is considered part of the administrative record. While it was not formally submitted as an exhibit, nor presented as

testimony under oath, it is consistent with Mr. Veenstra's testimony as to his intended meaning, and for that reason, appropriately relied on in these proceedings. *See* IDAPA 62.01.01.478.

5. On May 21, 2025, Mr. Veenstra requested, by email, that the Hearing Officer order ITD to print and send him his license plate for "MUFFLVR." Mr. Veenstra also requested a briefing schedule on his constitutional arguments. On May 22, 2025, by Order, the Hearing Officer denied Mr. Veenstra's request to order ITD to print and send him his plates; the Hearing Officer ordered that Mr. Veenstra file his briefing on any additional issues within 14 days of that Order. Mr. Veenstra did not file a brief on any additional issues and as of June 5, 2025, this matter was ripe for consideration.

### **FINDINGS OF FACT**

1. On February 20, 2025, Petitioner Veenstra submitted a personalized license plate application requesting a plate reading "MUFFLVR." ITD Exhibit, p.2.

2. "MUFFLVR" is intended to be a play on words in homage to its original intended meaning, referencing mufflers. *See* May 22, 2025, email *RE: Veenstra v ITD - Request to Supplement the Record*.

3. On February 27, 2025, ITD sent Mr. Veenstra a License Plate Cancellation Notification stating, "your personalized place MUFFLVR was flagged as having a double meaning which the state considers inappropriate for display[.]" ITD Exhibit, p. 3.

4. The Notification included a Personalized Plate Correction Form, which would allow him to submit an alternate plate, or, in the alternative, Mr. Veenstra could request an administrative hearing to appeal ITD's decision. ITD Exhibit, p.4.

5. On March 8, 2025, Mr. Veenstra mailed a handwritten letter to ITD requesting an administrative hearing for appeal and identified multiple meanings for the term “muff,” including a love for mufflers, muffins, and a reference to loud mufflers. ITD Exhibit, p. 11.

6. On June 4, 2025, Mr. Veenstra emailed a request to [SpecialPlates@itd.idaho.gov](mailto:SpecialPlates@itd.idaho.gov) for an administrative hearing to appeal ITD’s decision that his personalized license plate was inappropriate. ITD Exhibit, p.5. That email reads as follows:

Per our conversation on 03/31/2025

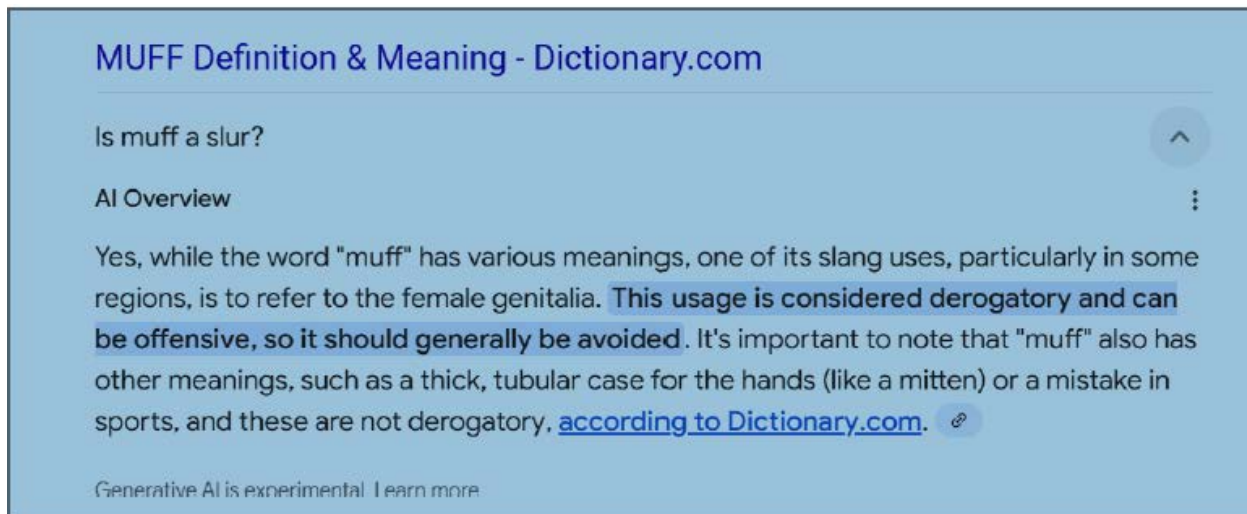
I am requesting an administrative hearing and appeal. Your verbal reasoning for not allowing this plate was because in your mind and opinion it was offensive because you said that “a muff” is female genitalia. That couldn’t be further from the truth. The following is a partial list of my reasoning why I believe that this initial reasoning is misplaced. The “muff” has Numerous different meanings, I believe you’re violating my first amendment right to free speech by plucking one of many meanings out of the air and denying me my license plate.

1. A “muff” is not part of female genitalia, biology 101.

7. The June 4, 2025, email also contained several attachments of screen shots that appear to be Google searches for “definition of female ge. . .”, “What is considered female genitalia?” (listing various parts of female anatomy, but not including “muff”), “Muff (handwarmer) – Wikipedia”, various shopping ads for “women’s warm faux fur muffs” (with other shopping examples), “Are female pubic hair . . .” (showing a search result highlighted reading “the hair itself is not considered part of the genitalia”), “Is a muff something th . . .” (showing a search result that states “A muff is a fashion accessory for outdoors usually made of a cylinder of fur or fabric with both ends open for keeping the hands warm.”) ITD Exhibit, pp. 6-10.

8. In support of its decision to cancel and recall the personalized license plate at issue, ITD provided a definition for “muff” from “Dictionary.com” in advance of hearing. ITD Exhibit, p. 24.

9. According to “Dictionary.com,” “muff” is used to refer to the female genitalia, is considered derogatory, and can be offensive, aside from its other meanings. ITD Exhibit, p. 24.



10. This Hearing Officer has verified both Mr. Veenstra’s Google search results and ITD’s Google search results and finds that “muff” generally has three recognized meanings: (1) a tube made of fur used to warm hands; (2) a vulgar slang term used to reference the female pubic area; and (3) a figurative meaning for poor performance or a missed opportunity.

11. There is no support or evidence that the term “muff” is used as an abbreviation for “muffin.”

12. From the following exchanges with ITD in the administrative record, it can be determined that the dispute here is on the word “muff” and not “lvr” – which is an abbreviation for “lover.” Despite that, it appears that part of the issue is the combination of “muff” with “lvr” indicating a message that the plate-carrier either loves fur tubes used to warm hands or loves the female pubic area. The third definition – a missed opportunity or poor performance – grammatically does not make sense and has not been raised as a concern by ITD or by Mr.

Veenstra. The final potential interpretation is the one that Mr. Veenstra states is his intent – a love for mufflers.

13. Therefore, the dispute in these proceedings is whether Mr. Veenstra’s intended meaning – a short reference to mufflers and his love for them is sufficient for ITD to issue his requested plate. Even though Mr. Veenstra argues the alternate meaning for “muff” is a fur tube intended to warm hands, that is not his intended meaning nor the meaning that ITD takes issue with.

### CONCLUSIONS OF LAW

1. Idaho Code section 49-409(1), regarding personalized license plates, states:

#### PERSONALIZED LICENSE PLATES.

(1) Any person who is the owner of a vehicle registered under section 49-402 or 49-434(1), Idaho Code, may apply to the department for personalized license plates in lieu of regular numbered plates . . . The personalized license plates shall be of the same color and design as other license plates, and shall consist of numbers or letters, or any combination thereof, not exceeding seven (7) positions. No more than one (1) particular combination of letters and numbers shall be in existence at any one (1) time. The form for application of the plates will be as prescribed by **the director** who, **at his discretion, may refuse to issue the plates.**

I.C. §49-409(1) (emphasis added).

2. IDAPA 39.02.60.202.08 prescribes the rules for ITD determination of acceptability of personalized plate messages, as well as ITD authority to issue, deny, or cancel, personalized plates, considering the following:

#### ACCEPTABILITY OF PLATES MESSAGE.

. . .

(b) The message, in any language, **may not carry a sexual connotation** nor consist of a term that is one of obscenity, contempt, prejudice, hostility, insult, racial or ethnic degradation, or profanity, as defined by common internet and dictionary resources.

(i) The message **may not refer to** any of the following: bodily functions, bodily fluids, or **intimate body parts**; sexual preference or orientation; acts of violence; illegal substances or the use thereof.

(ii) The message may not represent a group that is commonly known to promote violence, illegal substances or illegal acts.

IDAPA 39.02.60.202.08(b) (emphasis added).

3. “Intimate body parts” is not defined in IDAPA 39.02.60, but it is defined in multiple areas of Idaho Code:

- a. Idaho Code section 18-919(b)(1) (sexual exploitation by a medical care provider): “‘Intimate part’ means the sexual organ, anus, or groin of any person, and the breast of a female.” (Emphasis added).
- b. Idaho Code section 18-924(1) (sexual battery): “For purposes of this section, ‘intimate parts’ means the genital area, groin, inner thighs, buttocks or breasts.” (Emphasis added).
- c. Idaho Code section 18-5601(5) (commercial sexual activity): “‘Intimate body parts’ includes human genitals, pubic area, buttocks, or breasts.” (Emphasis added).
- d. Idaho Code section 18-6606(4)(d) (disclosing explicit synthetic media): “‘Intimate parts’ means the nude genitals, pubic area, anus, or postpubescent female nipple.” (Emphasis added).
- e. Idaho Code section 18-8602(8) (human trafficking): “‘Intimate body parts’ includes human genitals, pubic area, buttocks, or breasts.” (Emphasis added).

4. From other parts of Idaho Code it can be determined that the common understanding in Idaho law is that the pubic region – of a male or female – is considered an intimate

body part. *See State v. Schulz*, 151 Idaho 863, 866 (2011) (stating that interpreting undefined phrases starts with the literal language of the code and “words should be given their plain, usual, and ordinary meaning.”)

5. IDAPA 39.02.60.202.08 also provides that the acceptability of the personalized license plate message will be determined by the Department based on the following criteria:

(c) The **criteria** in Paragraph 202.08.b. of this rule **is not** to be considered **an exhaustive list**. A compilation of words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be **used as a guide**. The Department may also rely on information obtained from law enforcement agencies within or outside of Idaho.

IDAPA 202.08(c); emphasis added.

6. Mr. Veenstra has the burden of proof in these proceedings. IDAPA 62.01.01.477.

7. There is no dispute that one definition of “muff” is the female pubic area. While Mr. Veenstra argued in his underlying appeal documents that “muff” does not refer to female genitalia, he conceded during the hearing that this is an alternative definition for the word that is beyond his intended meaning. Recording at 11:43-12:08 (discussing the origin of the word “muff”) and 13:12-13:41 (conceding that using the term “muff” is a play on words – indicating it is both a reference to mufflers and female pubic area).

8. There is no dispute that the requested plate “MUFFLVR” can mean many things. *See* ITD Exhibit, p. 11; scan of Mr. Veenstra's handwritten letter requesting an administrative hearing for appeal dated March 8, 2025, stating “MUFFLVR can mean many things.”

9. Regardless of Mr. Veenstra's intended meaning of “muffler mechanic welder installer” (*See* May 22, 2025, email *RE: Veenstra v ITD - Request to Supplement the Record*) the secondary meaning does violate IDAPA 39.02.60.202.08 because it contains a reference to an “intimate body part” (IDAPA 39.02.60.202.08(b)(i)), as defined by common internet and dictionary resources. IDAPA 39.02.60.202.08(b).



10. Muff could have multiple definitions that do not violate IDAPA 39.02.60.202.08. However, if one of the definitions could be misunderstood by a population of individuals to have a meaning that does violate IDAPA 39.02.60.202.08, then it is within ITD's discretion to deny/recall/cancel the plate.

11. The California Court of Appeals addressed a similar issue to these proceedings in *Kahn v. Department of Motor Vehicles*, 16 Cal. App. 4th 159 (Ct. App. Cal. 1993). The petitioner in that case – a certified court reporter – made the request with the court for the Department to return her personalized plate reading “TP U BG,” which she indicated read in court reporting shorthand symbols “if you can” as an homage to her mother and the story of “The Little Engine that Could.” *See Kahn*, at 162 (“TP” as “If”, “U” as “U”, and “BG” as “Can”). Ms. Kahn's plate was reported to the Department by another court reporter stating that the shorthand “TP U BG” had a second meaning that could also translate to “TP” as “F,” “U” as “U” and “BG” as “CK.” *Id.*, at 169. There, the court held “Petitioner's intent is irrelevant. There is abundant evidence that the first reaction of one understanding court reporting shorthand upon reading ‘TP U BG’ as it would appear on a license plate generally is that the plate contains the four-letter epithet often referred to the ‘F’ word.” *Id.* That is, even though the innocent translation of “TP U BG” to “If you can” was the intention, the secondary translation of “TP U BG” to “fuck” gave the Department the authority to recall the plate.

12. The same is true here. In a world where individuals carry around the entirety of the internet in their pockets, discerning the alternate meaning of “muff” to its secondary meaning would not be difficult. While one could immediately determine that Mr. Veenstra's subjective meaning of a love for mufflers as the intended message, one could just as easily determine the

secondary meaning of a love for the female pubic region, which is an intimate body part in violation of IDAPA 39.02.60.202.08.

13. ITD demonstrated that a Google search provides a search result from “dictionary.com” defining “muff” as a reference to an intimate body part. ITD exhibit, p. 24.

14. This is so even though Mr. Veenstra has demonstrated alternative Google search results that provide alternative definitions in support of his intended meaning. While a Google search result will show all three meanings identified in Finding of Fact 12, the definition that violates IDAPA 39.02.60.202.08 still exists. This is no different than “TP U BG” translating to “if you can” and “fuck” – the abbreviation carries more than one meaning and one of those meanings is regulated by IDAPA 39.02.60.202.08.

15. While Mr. Veenstra’s subjective intent does not violate IDAPA 39.02.60.202.08, it is the objective message received by the public that ITD has regulated.

16. Mr. Veenstra has not carried his burden in these proceedings to demonstrate that word “muff” is not a reference to an intimate body part, and he has not met his burden that the phrase “MUFFLVR” does not carry a sexual connotation.

### **PRELIMINARY ORDER**

Based on the Findings of Fact and the Conclusions of Law set forth above, ITD’s decision to deny Petitioner Veenstra’s personalized license plate of “MUFFLVR” is **AFFIRMED**.

### **RULE 626 NOTICE**

**This is a preliminary order of the presiding officer. It can and will become final without further action of the agency, and without any further notice to you, unless any party requests that either the presiding officer or the agency head review it.** If no such request is made within fourteen (14) days of the service of this preliminary order, the order will become

final, and you will then have twenty-eight (28) days to file a petition for judicial review with a district court, pursuant to Idaho Code Sections 67-5270 through 67-5279.

If you disagree with this preliminary order, you may file a “motion for reconsideration” with the presiding officer, or you may file “exceptions” and/or a “petition for review” with the agency head. You are allowed to file all of these.

If you would like to file a motion for reconsideration of this preliminary order with the presiding officer, you must do so within fourteen (14) days of the service date of this order. After the presiding officer receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied.

If another party has filed a motion for reconsideration of this preliminary order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the presiding officer, in their discretion, requests it.

You may also file any exceptions you may have to this preliminary order, with a supporting brief, directly with the agency head within fourteen (14) days of the service date of this order, unless the agency head sets a different deadline.

If another party has filed exceptions to this preliminary order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the exceptions. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it.

You may also file a petition for review regarding this preliminary order, with a supporting brief which sets forth the basis for review, directly with the agency head within fourteen (14) days

of the service date of this order, unless the agency head sets a different deadline. The agency head may also notify the parties within fourteen (14) days of the service date of this order, that they, by their own choice, are reviewing this preliminary order, which notice will identify the issues the agency head will review. If a motion for reconsideration has been filed with the presiding officer, your petition for review, or the agency head's notice, does not have to be filed until fourteen (14) days after the motion for reconsideration process with the presiding officer is complete.

If another party has filed a petition for review of this preliminary order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the petition for review. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it.

If you would like to request oral argument regarding any motion for reconsideration, exceptions, or petition for review, you must state so in your filings. The decision whether to have oral argument is a decision for the presiding officer or the agency head to make, and they may decide to not have oral argument, even if you or any other party has requested it.

If an agency head reviews a preliminary order, they have the option of either issuing a final order, remanding the matter back to the presiding officer, or holding additional hearings. You will be notified of the agency head's choice if the preliminary order is reviewed.

IT IS SO ORDERED.

DATED: July 1, 2025.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Leslie M. Hayes  
Leslie M. Hayes  
Deputy Chief Administrative Law Judge

## CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July, 2025, I caused to be served a true and correct copy of the foregoing by the following method to:

Albert Pete Veenstra  
2405 Sunny Ridge Rd.  
Nampa, Idaho 83686-8464  
*Petitioner*

☐ U.S. Mail  
☒ Email:  
[petevnenar@gmail.com](mailto:petevnenar@gmail.com)

Krisna Kiger  
Supervisor  
Idaho Department of Transportation  
*ITD Service Contact*

☐ U.S. Mail  
☒ Email:  
[Krisna.Kiger@itd.idaho.gov](mailto:Krisna.Kiger@itd.idaho.gov)

OAH  
General Government Division  
P.O. Box 83720  
Boise, ID 83720-0104

☒ Email:  
[filings@oah.idaho.gov](mailto:filings@oah.idaho.gov)  
[leslie.hayes@oah.idaho.gov](mailto:leslie.hayes@oah.idaho.gov)

/s/ Elaine Maneck  
Elaine Maneck, Deputy Clerk  
Office of Administrative Hearings