



ISSUED:
March 4,
2026

**STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

Petitioner,

v.

Bureau of Motor Vehicles,

Respondent.

Administrative Case Number: BMV-2510-005325

Ultimate Authority: Office of Administrative Law Proceedings

FINAL ADMINISTRATIVE DECISION

The Administrative Law Judge (ALJ) J. Matthew R. Howerton, having heard the evidence and arguments presented in this matter, now issues this Final Order addressing the decision by the Bureau of Motor Vehicles (Respondent) to deny a non-REAL ID Act-compliant credential to [REDACTED] (Petitioner). This decision is favorable to the Respondent. Any party dissatisfied with this decision may appeal. Appeal instructions are at the end of this document.

Jurisdiction

The ALJ assigned to this matter by the Director of the Office of Administrative Law Proceedings (OALP), see Ind. Code § 4-15-10.5-13, has jurisdiction over this case pursuant to Indiana Code § 4-15-10.5-12, which gives OALP jurisdiction over agency administrative actions subject to the Indiana Administrative Orders and Procedures Act at Indiana Code Art. 4-21.5 (AOPA) or “any other statute that requires or allows the office to take action.” The OALP has jurisdiction over this case because this case is governed by AOPA.

Issue

The issue(s) in this case are: Whether the Petitioner should be issued a credential that is not REAL ID Act-compliant.

Procedural History

1. On October 3, 2025, the Respondent issued an action letter to the Petitioner informing her that it had denied her application for a non-REAL ID Act-compliant credential.
2. The Petitioner filed a Petition for Administrative Review with the OALP on October 16, 2025.
3. A telephonic Initial Prehearing Conference (IPHC) was held on November 18, 2025, using the Zoom platform. The Petitioner appeared self-represented. The Respondent was represented by Administrative Hearings Attorney Laura Keith (Attorney Keith). At the request of the Parties, the ALJ scheduled an Evidentiary Hearing.
4. The telephonic Evidentiary Hearing was held on January 22, 2026, using the Zoom platform. The Petitioner appeared self-represented. The Respondent was represented by Attorney Keith. Michele Lyda appeared as a witness for the Respondent.
5. The following Exhibits were admitted into evidence by the ALJ at the Evidentiary Hearing:
 - a. Petitioner's Exhibit 1, Citizen's Council for Health Freedom Letter RE: Docket NO. TSA 2023-0003/ RIN 1652-AA77 Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Phased Approach for Card-Based Enforcement (6 pages).
 - b. Petitioner's Exhibit 2, The American Association of Motor Vehicle Administrators (AAMVA) Testimony Before the United States House of Representatives Committee on Homeland Security Subcommittee on Transportation and Maritime Security (4 pages).
 - c. Respondent's Exhibit A, BMV Letter to the Petitioner dated October 3, 2025 (1 page).
 - d. Respondent's Exhibit B, [REDACTED] Operator's License Application dated March 9, 2018 (7 pages).
 - e. Respondent's Exhibit C, Excerpt from TSA Official Website FAQ dated May 27, 2025 (3 pages).
6. Upon request of the Respondent, pursuant to Ind. Code § 4-21.5-3-26(f), and without objection by the Petitioner, the ALJ took official notice of the following:
 - a. 140 Ind. Admin. Code 7-11-3
 - b. Ind. Code § 9-24-11-2

Findings of Fact

1. The Respondent began issuing credentials that are compliant with the REAL ID Act of 2005 in 2010 (Lyda Testimony). These credentials are Indiana state-issued identification documents that meet specific security standards set forth in the REAL ID Act to safeguard individuals' identities and the integrity of identification (Lyda Test.).
2. On March 9, 2018, the Petitioner applied for an Indiana driver's license after moving to Indiana from Hawaii (Resp. Ex. B). The written application, which was signed by the Petitioner, specified that she was applying for a "REAL ID" (Resp. Ex. B at 1).
3. As verification of her identity, citizenship, residency, and Social Security number, the Petitioner provided the Respondent with copies of her birth certificate, Hawaii driver's license, Social Security card, 2017 Form W-2, and a letter addressed to her from Heritage Federal Credit Union (Resp. Ex. B at 3-6). The Petitioner also provided a signed Affidavit of Mailing Address verifying her mailing address (Resp. Ex. B at 7).
4. By signing the application, the Petitioner authorized the Respondent "to verify all information that [she had] provided, including [her] identity, lawful status, residency, and Social Security number or supporting documentation, and any other documentation provided" (Resp. Ex. B at 2).
5. Based on her application and provided documentation, the Respondent issued a REAL ID Act-compliant credential to the Petitioner in 2018 (Totality of the Evidence).
6. In 2025, the Petitioner applied for a non-REAL ID Act-compliant credential, and the Respondent denied that request in its action letter dated October 3, 2025 (Resp. Ex. A).
7. The American Association of Motor Vehicle Administrators (AAMVA), which is "a tax-exempt, nonprofit organization that develops model programs in motor vehicle administration, law enforcement, and highway safety" and "represents the state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws," has proposed the implementation of a Mobile Driving License (mDL), a type of digital identification credential (digital ID) (Petitioner's Ex. 2).
8. No evidence was presented showing that the Respondent or any of its officials are associated with the AAMVA or endorse its policy objectives.
9. The Respondent does not issue mDLs or any other type of digital ID (Lyda Test.).

Conclusions of Law

1. When holding an administrative hearing, an administrative law judge serves as a trier of fact and must apply a de novo standard when making finding of facts and conclusions of law. Ind. Code § 4-21.5-3-14(d); *Indiana-Kentucky Elec. Corp. v. Comm’r, Indiana Dep’t of Env’t Mgmt.*, 820 N.E.2d 771, 781 (Ind. Ct. App. 2005); *Indiana Dep’t of Natural Res. v. United Refuse Co., Inc.*, 615 N.E.2d 100, 104 (Ind. 1993).
2. The dispositive issue in this appeal is whether the Petitioner should be issued a credential that is not compliant with the REAL ID Act.
3. The Petitioner bears the burden of proof to show by a preponderance of evidence that she should be issued a credential that is not compliant with the REAL ID Act. Ind. Code § 4-21.5-3-14(c); see IC § 4-21.5-5-14(d)(5); see *Indiana Dep’t of Nat. Res. v. Krantz Bros. Const. Corp.*, 581 N.E.2d 935, 938 (Ind. Ct. App. 1991).
4. The Respondent is the state agency responsible for the administration of driving privileges and driver’s licenses in Indiana. IC § 9-14-8-3(3)(A).
5. An Indiana resident must have a valid driver’s license or permit issued by the Respondent to operate a motor vehicle. IC § 9-24-1-1.
6. The REAL ID Act of 2005 sets out minimum document requirements and issuance standards for federal recognition of credentials issued by state driver’s licensing agencies. Pub. L. No. 109-13, Div. B, Title II, May 11, 2005, 119 Stat 231.
7. A REAL ID Act-compliant credential issued by a state driver’s licensing agency may be used for “accessing Federal facilities, boarding Federally-regulated commercial aircraft, and entering nuclear power plants.” 6 CFR § 37.3; 6 CFR § 37.5(b).
8. In order to issue REAL ID Act-compliant credentials, states must comply with REAL ID Act-related regulations promulgated by the Department of Homeland Security. See 6 CFR § 37.51. States that comply with the REAL ID Act may choose to continue issuing non-REAL ID Act-compliant credentials, but those credentials must be visually distinct from the state’s REAL ID Act-compliant credentials. 6 CFR § 37.55.
9. Following the passage of the REAL ID Act, Indiana’s General Assembly amended Indiana’s driver licensing statutes, and the Respondent promulgated new regulations to bring Indiana into compliance with the requirements of the REAL ID Act. See *Indiana Bureau of Motor Vehicles v. Simmons*, 233 N.E.3d 1016, 1025 (Ind. Ct.

App.), *aff'd as modified*, 236 N.E.3d 1159 (Ind. Ct. App. 2024), and *transfer denied*, 248 N.E.3d 1196 (Ind. 2024).

10. The Respondent currently issues REAL ID Act-compliant credentials to individuals who supply documentation consistent with the requirements of the REAL ID Act and associated federal regulations but also issues credentials that are not REAL ID Act-compliant to those who already hold a non-REAL ID Act-compliant Indiana credential and do not supply the necessary documentation. See 140 IAC 7-1.1-3(a).
11. The Respondent only requires the submission of documentation required by the REAL ID Act once, therefore once an Indiana resident has been issued a REAL ID Act-compliant credential, all subsequent credentials issued to that individual by the Respondent will be REAL ID Act-compliant as well. See 140 IAC 7-1.1-3(b).
12. As an initial matter, the Petitioner argues that the Respondent's action was unconstitutional. Generally, the ability of an ALJ to rule on constitutional claims is limited, and an ALJ cannot decide whether a statute is unconstitutional because that is a power reserved for the courts. See *Sunshine Promotions, Inc. v. Ridlen*, 483 N.E.2d 761, 765 (Ind. Ct. App. 1985). Nevertheless, when a party raises any constitutional claims before an administrative tribunal, it must still make the necessary factual findings to allow a court to review and resolve such issues if the party subsequently raises those claims on judicial review. See *Osborn v. Schultz*, 238 N.E.3d 730, 734 (Ind. T.C. 2024).
13. To the extent there may be constitutional arguments here that the ALJ could decide, those arguments are too poorly developed for the ALJ to resolve. The Petitioner has not specifically identified what provisions of the federal or state constitutions that the Respondent's action under appeal here violates or otherwise explained how they are unconstitutional beyond conclusory statements. The ALJ cannot act as an advocate for a party by developing arguments that the parties did not develop for themselves, and therefore the ALJ concludes the Petitioner's constitutional argument fails. See *Basic v. Amouri*, 58 N.E.3d 980, 984 (Ind. App. Ct. 2016).
14. As to the Petitioner's argument that REAL ID Act-compliant credentials will eventually lead to digital IDs, the ALJ concludes that there is no relief that can be obtained in this proceeding based on that argument. Assuming for the sake of argument that being issued a digital ID would constitute an injury to the Petitioner for which the ALJ had the power to order some form of relief, such a claim is not yet ripe. "A claim that 'rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all' is not ripe for adjudication[.]" *Individual Members of Med. Licensing Bd. of Indiana v. Anonymous Plaintiff 1*, 233 N.E.3d 416, 438 (Ind. Ct. App.), *transfer denied*, 246 N.E.3d 271 (Ind. 2024) (internal citations omitted). The Respondent did not issue a digital ID to the Petitioner, the Respondent

does not currently issue digital IDs, and there is no evidence that the Respondent has taken any concrete steps to do so in the future. Therefore, any claim related to digital IDs is not properly before the ALJ at this time.

15. To the extent that the Petitioner argues that the Respondent should not have issued a REAL ID Act-compliant credential to her in the first place in 2018, she was required to appeal that action by filing a Petition for Review within fifteen days. IC § 4-21.5-3-7(a)(3)(A). Because more than seven years passed between the Respondent's first issuance of a REAL ID Act-compliant credential to the Petitioner and the filing of the Petition for Review under consideration here, any such arguments are untimely.
16. Untimeliness notwithstanding, the ALJ finds no error in the initial issuance of a REAL ID Act-compliant credential to the Petitioner. Her 2018 application, which she signed multiple times, indicated that she was applying for a "REAL ID" and authorized the Respondent to verify all the information and documentation that she had provided. She also provided copies of her birth certificate, Hawaii driver's license, Social Security card, 2017 Form W-2, and a letter addressed to her from Heritage Federal Credit Union, all of which are required documents to be issued a REAL ID Act-compliant credential. 6 CFR § 37.11; 140 IAC 7-1.1-3(b). The Petitioner has provided no legal basis for her argument that the Respondent could not issue a REAL ID Act-compliant credential without obtaining "informed consent" from her. Moreover, the evidence shows that the Petitioner willingly applied for and consented to receive a REAL ID Act-compliant credential, so she would not have met her burden to prove that argument even if it was legally viable.
17. Finally, there is no statutory or regulatory basis for the Petitioner to be issued a credential that is not REAL ID Act-compliant now. Individuals are required to submit the documents necessary for a REAL ID Act-compliant credential to the Respondent only once. 140 IAC 7-1.1-3(b). Furthermore, the Respondent is required to retain those documents. 6 CFR § 37.31. The Petitioner provided all of the documents necessary to receive a REAL ID Act-compliant credential to the Respondent, the Respondent must retain those documents in its records, and therefore every credential issued by the Respondent to the Petitioner will necessarily be REAL ID Act-compliant.

Decision and Order

The ALJ AFFIRMS the agency action to deny the Petitioner's application for a non-REAL ID Act-compliant credential.

So ordered on: March 4, 2026.

/s/J. Matthew R. Howerton
Hon. J. Matthew R. Howerton
Administrative Law Judge
Office of Administrative Law Proceedings

Appeal Rights

A person who wishes to seek judicial review of this final determination must file a petition for review in an appropriate court within 30 days of the date this Order was served. See Ind. Code §4-21.5-5-5. Guidance for calculating deadlines may be found at Indiana Code § 4-21.5-3-2.

Other requirements for a petition for judicial review may be found at Indiana Code chapter 4-21.5-5. A petition for judicial review must be served on the Office of Administrative Law Proceedings OALP@oalp.in.gov to ensure the Office prepares the record that will be filed in the court presiding over the judicial review.

Distribution:

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Respondent, Bureau of Motor Vehicles, sent via e-mail at lkeith@bmv.in.gov