

Prescriptive laws make bad election design

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Elections resist change. Even when officials, advocates, and politicians all agree, it is still difficult to make changes to ballot design: many elements of ballot design and instructions are often written into law.

In the United States, most of these laws were written for older voting systems or ballot scanners and even older printing technology. These laws lock election officials into bad design requirements, such as the use of all-caps or specific font sizes, that can make ballots harder to read and use.

Many states include the instructions for voting in the statute, where they cannot be changed easily. In one absurd case, the New York City ballots in the 2010 elections were printed with instructions that were just plain wrong. The illustration below shows three of the contests on the ballot, for Comptroller, Attorney General, and United States Senator. Voters indicate their choice by filling in the oval *under* the candidate's name. But the legally-mandated instructions say, "To vote for a candidate whose name is printed on this ballot fill in the oval *above or next to* the name of the candidate." The only good news is that these instructions are in tiny type, on the back of the ballot. It's likely (and lucky) that no one actually read them.

Attorney General Fiscal General Vote for one Vote por uno	A ★ Democratic	B 🐘 Republican
	Eric T Schneiderman	Dan Donovan
United States Senator (6 Year Term) Senador de los Estados Unidos (Periodo de 6 Años) Vote for one Vote por uno	A ★ Democratic	B 🐘 Republican
	Charles E Schumer	Jay Townsend

(Figure 1: NYC Ballot Closeup

GENERAL ELECTION INSTRUCTIONS

- (1) Mark only with a writing instrument provided by the Board of Elections.
- (2) To vote for a candidate whose name is printed on this ballot fill in the oval above or next to the name of the candidate.
- (3) To vote for a person whose name is not printed on this ballot write or stamp his or her name in the space labeled "Write-in" that appears at the end of the row for such office and fill in the oval corresponding with the write-in space in which you have written in a name.
- (4) To vote yes or no on a proposal, if any, that appears on the back of the ballot fill in the oval that corresponds to your vote.
- (5) Any other mark or writing, or any erasure made on this ballot outside the voting squares or blank spaces provided for voting will void this entire ballot.
- (6) Do not overvote. If you select a greater number of candidates than there are vacancies to be filled, your ballot will be void for that public office, party position or proposal.
- (7) If you tear, or deface, or wrongly mark this ballot, return it and obtain another. Do not attempt to correct mistakes on the ballot by making erasures or cross outs. Erasures or cross outs may invalidate all or part of your ballot. Prior to submitting your ballot, if you make a mistake in completing the ballot or wish to change your ballot choices, you may obtain and

Figure 2: NYC Ballot Instructions

Even if a state does decide to improve the situation, changes are handled like a typical process of writing a new law, through reviews of "markups." With its focus on the words of the law, this process makes it almost impossible to check the legal requirements against a well-designed ballot or clearly written instructions.

One election in 2008, for Senator from Minnesota between Al Franken and Norm Coleman was decided only after a lengthy recount and legal battle that lasted over 8 months. One of the biggest controversies centered on absentee ballots and deciding which of them were even eligible to be counted. A shockingly high number were disqualified because the "envelope" (with the voter's identification and signature and witness signature) was not completed correctly. In other words, citizens who had gone out of their way to receive and return a ballot did not have their votes counted.

After the election was over, Minnesota decided to revise the instructions for absentee ballots to try to reduce the number of ballots which are disqualified. The Brennan Center asked the Usability in Civic Life project to review the draft changes to the election law.

What we received was a typical markup

Subp. 2. Instructions for registered voters.

INSTRUCTIONS FOR ABSENTEE VOTERS

Step 1. You must have a witness to vote by absentee ballot. Your witness may be anyone who is registered to vote in Minnesota including your spouse or another relative, ~~or they may be~~ a notary public or a person with the authority to administer oaths.

Step 2. Show your witness the unmarked ballot(s).

Step 3. Mark your votes in private according to the instructions on the ballot(s). ~~Mark your ballot(s) in private. If you have a disability or are otherwise unable to mark the ballot(s), you may ask your witness to assist you.~~ Make sure you do not vote for more candidates than allowed for any office, since this will prevent your votes for that office from being counted. ~~If you make an error when marking your ballot, you may request a new ballot from the election official from whom you received your ballot. If you cannot request a new ballot, either completely erase any errors or draw a line through the name of the candidate(s) for whom you mistakenly voted and remark your ballot for your preferred candidate(s). Do not put any identifying marks write your name or an identification number anywhere on the ballot.~~

Figure 2 – Markup

We said that just fixing the language was not enough—that the design and presentation of the instructions is critical to the usability of the materials. Beth Fraser, the project leader from the Minnesota Office of the Secretary of State, agreed to work with us. That started a 3-month volunteer project to redesign (and test) the absentee ballot instructions and return envelope forms.

One problem is that the “simple” act of voting is really very complicated. In Minnesota, there are three types of absentee voting (depending on whether the voter is in the US or temporarily overseas) and at least two different styles of envelopes.

The work itself proceeded like many plain language projects, in rounds of editing and review as we tried out different ways to organize the steps of the process into clear and usable instructions. Starting from the old version and the draft rule, we re-organized the steps into logical voter-focused groups, untangled sentences, cut extra words, and created illustrations for each step.

Here’s how the instructions evolved. These clips are from the most complicated type of absentee ballot, in which voters update their voter registration *and* vote. Step 1 is to complete the registration form before voting.

Step 2. Show your witness the unmarked ballot(s).

Step 3. Mark your votes according to the instructions on the ballot(s).

Mark your ballot(s) in private. If you have a disability or are otherwise unable to mark the ballot(s), you may ask your witness to assist you. Make sure you do not vote for more candidates than allowed for any office, since this will prevent your votes for that office from being counted. If you make an error when marking your ballot, you may request a new ballot from the election official from whom you received your ballot. If you cannot request a new ballot, completely erase any errors and remark your ballot. Do not put any identifying marks on the ballot.

Draft 1

In Minnesota, someone must witness the voting. They check the blank ballot and then observe (from a distance) as the voter marks it and places it in the envelope.

The original instructions included a long paragraph that included information about how to vote.

2 Mark your ballot

Show your witness the unmarked ballot

Mark your votes in private.

- Follow the instructions on the ballot.
- Do not vote for more candidates than allowed for any office. If you do, your votes for that office will not be counted.
- Do not write your name or an identification number anywhere on the ballot.
- If you make a mistake, ask for a new ballot. If you cannot ask for a new ballot:
 - Completely erase the mistake, or
 - Draw a line through the name of the candidate where you made the mistake and then mark your ballot for the candidate you prefer.

Draft &

Our first step was to untangle the text. We kept the basic organization of the instructions, but broke it into bullet points and simplified the language.

2 Vote!

- Show your witness the unmarked ballot
- Mark your votes in private, following the instructions on the ballot
- Don't accidentally invalidate your ballot

Do not vote for more candidates than allowed for any office.

Do not write your name or an ID number anywhere on the ballot.

Correct a mistake the right way.

- If you make a mistake, ask for a new ballot.
- If you cannot ask for a new ballot, completely erase the mistake, or
- Draw a line through the name of the candidate you accidentally marked and then mark your ballot for the candidate you prefer.

Draft "

As we continued to revise, we added emphasis, made the instructions more specific and removed text that was duplicated on the ballot itself.

A team of volunteers and official staff did a usability test of this version, and found that it was still too complicated.

2 Vote!

- Show your witness the unmarked ballot
- Mark your votes in private, following the instructions on the ballot
- Don't accidentally invalidate your ballot

Do not write your name or an ID number anywhere on the ballot.

See the other side of this sheet for how to correct a mistake

Draft 1

For the second usability test, the text was simplified further. Instructions for correcting a mistake were moved to the back of the paper.

This worked better, but there was still some legal language (“invalidate your ballot”).

2 Vote!

- Show your witness your ballot, then mark your votes in private.
- Follow the instructions on the ballot.
- Do not write your name or an ID number anywhere on the ballot.
- Do not vote for more candidates than allowed. *If you do, your votes for that office will not count.*

See the other side if you make a mistake on your ballot.

Draft 5

The final version simplified the bullets into a single list and re-organized the first sentence for clarity about voting privacy.

After the legal and public review, some information we had left off (like the warning not to vote for too many candidates) was restored.

The person who deserves the most credit for the success of this project is Beth Fraser. She took on the challenge of working with a group of volunteers located both in Minneapolis (Minnesota) and around the country. She also managed the process of reviewing our drafts for legal accuracy and to ensure that they supported the election process. But most of all, she and her colleagues learned about usability, and ran the second usability test on their own.

Credits: Many people worked on this project.

- Office of the Minnesota Secretary of State:
Beth Fraser, Andy Lokken, Michele McNulty, Gary Poser;

Instructions for Absentee Voters (Unregistered, Challenged or Incomplete Registration)

Step 1. You must have a witness to vote by absentee ballot. Your witness may be anyone who is registered to vote in Minnesota including your spouse or another relative, or they may be a notary public or person with the authority to administer oaths.

Step 2. Completely fill out the voter registration application.

Step 3. Show your witness your proof of residence in the precinct. The witness should mark the proof shown on the ballot return envelope. Any of the following may be used as proof of residence:

- a valid Minnesota driver's license, permit or identification card; a receipt for any of these forms that contains your current address; or a tribal identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs that contains your name, address, signature and picture;

- the signature of a registered voter (voucher) who lives in your precinct; if your witness is registered to vote in your precinct, your witness may also vouch for you;
- if you live in certain residential facilities, the signature of an employee of the facility;
- a notice of late registration sent to you by the county auditor or city clerk;
- a current valid registration in the same precinct;
- one document from the list in (i) and one photo ID from the list in (ii):
 - An original bill for telephone, television, or Internet provider services, regardless of how those telephone, television or Internet provider services are delivered, or an original bill for gas, electric, solid waste, water, or sewer services, that:
 - shows the voter's name and current address in the precinct; and
 - has a due date within 30 days before or after the election day.

A rent statement from a landlord that itemizes utility expenses and meets the requirements of this paragraph is an original utility bill for purposes of providing proof of residence; or

- a Minnesota driver's license or identification card, a United States passport, a United States military identification card, a student identification card issued by a Minnesota postsecondary educational institution, or a tribal identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the individual's signature.

Step 4. Show your witness the unmarked ballot(s).

Step 5. Mark your votes according to the instructions on the ballot(s). Mark your ballot(s) in private. If you have a disability or are otherwise unable to mark the ballot(s), you may ask your witness to assist you. Make sure you do not vote for more candidates than allowed for any office, since this will prevent your votes for that office from being counted. If you make an error when marking your ballot, you may request a new ballot from the election official from whom you received your ballot. If you cannot request a new ballot, completely erase any errors and remark your ballot. Do not put any identifying marks on the ballot.

WHEN PARTISAN PRIMARY RACES ARE ON THE BALLOT: If you are voting in a partisan primary, you may only vote for the candidates of one party on the partisan portion of the ballot. Voting for candidates not within the same party will prevent the entire partisan portion of your primary ballot from being counted.

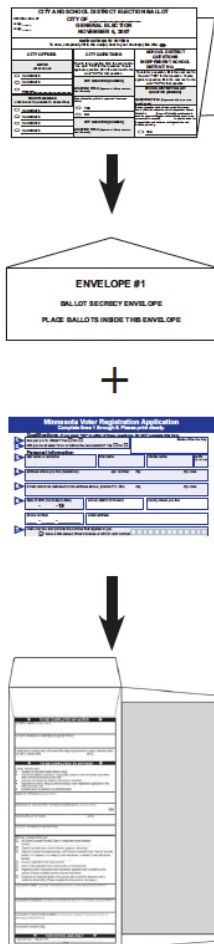
Step 6. Fold and place all voted ballots in the ballot secrecy envelope and seal the envelope. Do not write on the ballot secrecy envelope.

Step 7. Place the ballot secrecy envelope and your completed voter registration application into the ballot return envelope and seal the envelope.

Step 8. Print your name and address on the back of the ballot return envelope unless a label with your name and address has already been affixed. Sign your name. The name, address, and signature of your witness are also required.

Step 9. Fold and seal the small flap on the end of the return envelope, then fold and seal the large flap that covers the form on the back of the envelope.

Step 10. Return your ballot by mail or an express service to the address on the return envelope allowing enough time to be delivered by election day. You may also deliver it in person by 5:00 p.m. on the day before election day or have another person return your ballot by 3:00 p.m. on election day (this person cannot return ballots for more than three voters).



Instructions

How to vote by absentee ballot

- Get ready**
- You will need:**
- Ballot
 - Tan ballot envelope
 - Voter registration application
 - White signature envelope
 - Minnesota driver's license with your address or other authorized proof of where you live. *See the other side for options*
 - Witness
Someone registered to vote in Minnesota including your spouse or a relative, or any notary public, or a person with the authority to administer oaths

Important: You must submit the voter registration application with your ballot in the signature envelope for your vote to count.

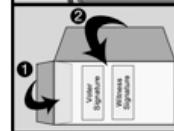
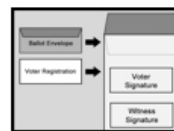
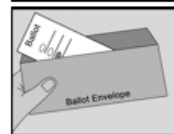
- 1 Fill out the voter registration application and sign it**
 - Show your witness your driver's license or other authorized proof of where you live. *See the other side for options.*
- 2 Vote!**
 - Show your witness your ballot, then mark your votes in private.
 - Follow the instructions on the ballot.
 - Do not write your name or an ID number anywhere on the ballot.
 - Do not vote for more candidates than allowed. *If you do, your votes for that office will not count.*

See the other side if you make a mistake on your ballot.
- 3 Seal your ballot in the tan ballot envelope**
 - Do not write on this envelope.
- 4 Put the tan ballot envelope and the voter registration application into the top of the white signature envelope**
- 5 Complete the white signature envelope**
 - If there is no label, print your name and Minnesota address.
 - Read and sign the oath.
Your signature will be compared to the one on your absentee ballot application.
 - Ask your witness to print their name and Minnesota address, indicate which proof you showed them, and sign their name.
If your witness is an official, they must print their title, instead of their address. Notaries must affix their stamp.
 - Seal the envelope. First the small flap, then the large flap.
- 6 Return your ballot to the address on the signature envelope**

Ballots may not be delivered directly to your polling place.

You have three options:

 - Send it so it arrives by election day, using U.S. Mail or a package delivery service,
 - Deliver it in person by 5:00 p.m. on the day before the election, or
 - Ask someone to deliver it by 3:00 p.m. on election day.
This person cannot deliver more than 3 ballots.



- UPA Usability in Civic Life: Whitney Quesenbery, Dana Chisnell, Josie Scott, Caroline Jarrett, Sarah Swierenga
- Center for Plain Language: Dana Botka, Ginny Redish
- Usability testing: David Rosen, Josh Carroll, Suzanne Currie, John Dusek, Gretchen Enger
- Illustrations: Christina Syniewski

More reading:

Ballot Design Affects Your Vote—Center for Plain Language, November 10, 2010

<http://centerforplainlanguage.org/blog/government/ballot-instructions/>

Better Ballots by Lawrence Norden, David Kimball, Whitney Quesenbery and Margaret Chen. The Brennan Center, July 2008

http://www.brennancenter.org/content/resource/better_ballots/

Ballot Usability and Accessibility blog—<http://ballotusability.blogspot.com/>

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Whitney Quesenbery is a user experience researcher and usability expert with a passion for clear communication. She works with companies from The Open University to the National Cancer Institute. She has served on two US advisory committees: the U.S. Access Board updating accessibility regulations and the Elections Assistance Commission creating requirements for voting systems.



She and Kevin Brooks recently published *Storytelling for User Experience: Crafting Stories for Better Design*. Whitney is a Fellow of the Society for Technical Communication and past president of Usability Professionals' Association.