

Comments on HB 140: Simplified Ballot Language

Whitney Quesenbery, Co-Director, Center for Civic Design, January 29, 2020

Thank you for the opportunity to comment the value of plain language on ballots to help voters participate in elections more effectively.

I run the Center for Civic Design, a Maryland-based nonprofit organization that focuses on democracy as a design problem. We work with elections offices and advocates across the county to improve the forms, processes, information, and ballots that are critical parts of the voter experience.

In the past 20 years, we have seen many elections where better design and clear information would have made a difference. Sadly, there are too many examples of elections where voters make too many choices in a contest (overvoted), or skip even hotly contested contests.

Plain language is important in elections and government generally, because 43% of literate adults read only at what the National Assessment of Adult Literacy calls basic or below basic levels. It does not mean “dumbing down” the information, but writing clearly. In research studies, both low and high-literacy people found information faster, answered more questions correctly, and gave higher satisfaction ratings when information was written clearly.

In our field testing with thousands of voters, asking about their experience voting, confusing ballot questions is often their biggest concern. They worry about understanding the text, especially when questions are asked in a convoluted way. They see this as an attempt to trick them.

A good example comes from the State of New Jersey, where a procedural constitutional amendment affecting the appointment of municipal court judges was rejected. The officials who shared this example said that they believed that voters did not understand the reason the amendment was proposed: to lower the cost of running municipal courts.

Another example comes from research we did on how to present information about county and municipal ballot questions for California voter guides. In this case, we presented a slightly altered version of a real ballot question renewing a

successful 10-year-old program to remove abandoned cars from city streets. In this case, the question had succeeded. In our research, however, very few of the people with low literacy, low English proficiency or low propensity to vote were able to explain what the measure would do, even after puzzling through it for several minutes. Even though they liked the program once they understood it (or we explained it), few would have been able to make a decision based on the ballot language alone.

When people with low literacy cannot easily understand what a ballot question is asking, they are less engaged—or worse disengaged.

The next question is how to measure whether the text of a ballot question is clear enough to make a difference.

Federal plain language guidelines say that the first step is to understand the readers. In this case, those readers include voters who may both read poorly and have low civic literacy. They need questions that explain the outcome of their vote – what happens if the ballot question either passes or fails.

A common suggestion in trying to assess the complexity of text is to use what are called grade level formulas. Unfortunately, these formulas are rather simplistic. At their core, they simply count the number of syllables in the words and the number of words in each sentence. This means they work poorly on forms or text with bulleted lists or on long sentences with phrases divided by semi-colons.

Grade level formulas and vocabulary checkers can be useful tools for drafting a ballot question, by highlighting potentially difficult words or phrases, but cannot tell you if a word is used correctly, or if the sentence makes sense.

Another solution is to create a set of guidelines for writing ballot questions. It can include both suggestions for how to construct the text and for making the meaning of the question clear - both general writing style and specific guidance for creating, clear consistent ballot questions that work well on Maryland's ballot formats.

Finally, even a limited review or usability test with voters can be helpful, especially as a way to learn what aspects of the question might be confusing to someone not already familiar with the content and context.

Resources

Center for Civic Design

<https://civicdesign.org/>

Our website has information about all of our election design projects and the Field Guides to Ensuring Voter Intent, design guidelines for designing ballots and other election information.

Federal Plain Language Guidelines on plainlanguage.gov

<https://plainlanguage.gov/guidelines/>

These are the official guidelines for the Plain Writing Act of 2010 developed and maintained by federal and national experts. Other information on the site includes extensive resources (including arguments and evidence of the benefits of plain language) and examples.

Report of Findings: Use of Language in Ballot Instructions by Janice ‘Ginny’ Redish, Dana Chisnell, Ethan Newby, Sharon Laskowski, Svetlana Lowry. NIST IR7556, May 2009

https://www.eac.gov/sites/default/files/eac_assets/1/28/NIST-use-of-Language-in-Ballots.pdf

This is a report on an extensive study of the language of ballot instructions. They learned that people voted more accurately with plain language, and that those who voted the plain language ballot first did significantly better on the traditional language ballot than those who used the traditional ballot first. They also learned that participants with lower education made more errors voting, often based on a low level of civics background, for example not differentiating between contests at different levels of government or with similar names.

The Public Speaks: An Empirical Study of Legal Communication by Christopher Trudeau. 14 Scribes Journal of Legal Writing 121 (2011-2012).

<https://ssrn.com/abstract=1843415>

This paper studied communication between lawyers and clients and found that even though almost all thought it was important to understand what an attorney is saying, 70% said they had gotten documents that were difficult to understand and 40% had stopped reading out of frustration. When given a choice between two text, readers chose the plain language version 80% of the time.

Reading and navigational strategies of Web users with lower literacy skills by Kathryn Summers and Michael Summers. Proceedings of the American Society for Information Science and Technology, October 2016 <https://asistdl.onlinelibrary.wiley.com/doi/full/10.1002/meet.1450420179>

This study identified differences between reading strategies of high and lower-literacy readers. When they rewrote medical information in plain language, both groups information faster, answered more questions correctly, and gave higher satisfaction ratings to the revised, plain language version.

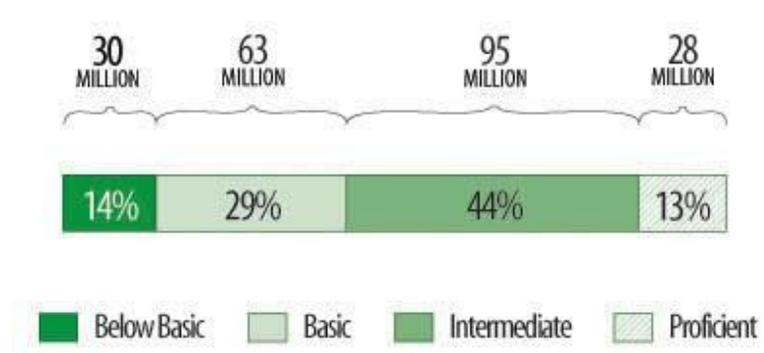
Readability Formulas: 7 Reasons to Avoid Them and What to Do Instead by Caroline Jarrett and Janice 'Ginny' Redish. UXMatters, July 2019
[https://www.uxmatters.com/mt/archives/2019/07/readability-formulas-7-reasons-to-avoid-them-and-wh at-to-do-instead.php](https://www.uxmatters.com/mt/archives/2019/07/readability-formulas-7-reasons-to-avoid-them-and-wh- at-to-do-instead.php)

This article looks at readability formulas and reviews the literature on their effectiveness. They conclude that grade levels are not meaningful for adults and that they are not an effective way to measure whether a text can be easily understood. Their recommendations include following a plain language guide and checking the text or document with people who are part of the audience who will read it.

National Assessment of Adult Literacy
http://nces.ed.gov/naal/kf_demographics.asp

The NAAL identified 4 levels of prose literacy:

- Below Basic: no more than the most simple and concrete literacy skills
- Basic: can perform simple and everyday literacy activities
- Intermediate: can perform moderately challenging literacy activities
- Proficient: can perform complex and challenging literacy activities



Ballot questions mentioned

New Jersey ballot question – 2008 Sample ballot:

[https://www.co.hunterdon.nj.us/election/2008general/SampleBallots/alexandria%20\(3\).pdf](https://www.co.hunterdon.nj.us/election/2008general/SampleBallots/alexandria%20(3).pdf)

State Public Question #2 Provides that method of selection and appointment of certain municipal court judges be set by statute rather than by the constitution.

Shall the amendment to Article VI, Section VI, paragraph 1 of the New Jersey Constitution, agreed to by the Legislature, providing that judges of inferior courts with jurisdiction extending to more than one municipality be appointed as provided in law rather than as provided in the Constitution which requires nomination by the Governor and appointment with the advice and consent of the Senate, be approved?

Interpretive Statement: This constitutional amendment would provide that the method of selection and appointment of certain municipal court judges would be set by statute, rather than be provided for in the Constitution. These judges may include judges of joint municipal courts and judges of central municipal courts with jurisdiction extending to the territorial boundaries of a county.

Ballot question, adapted from a California ballot

Should the County Vehicle Abatement Program and vehicle registration fees (one dollar per vehicle and an additional two dollars for certain commercial vehicles payable upon registration of a vehicle) be renewed for a ten-year term beginning July 1, 2013, for the abatement and removal of abandoned, wrecked, dismantled, or inoperative vehicles?