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New York's Arcane Election Laws Continue to Suppress Voters



By [Jerry Goldfeder](#)

Remember Florida's butterfly ballot and the hanging chad? The 2000 presidential election seems like a distant memory, but leave it to New York to remind us. Like the 36-day recount madness that left Americans wondering who the next president was, it took 43 days from the recent June Democratic primary election to settle the outcome of the Queens County race for district attorney. We finally know who the winner is — Melinda Katz by 55 votes over Tiffany Caban and five other candidates — but we also know who the real losers were: scores of otherwise eligible voters who never had their ballots counted.

The culprit? New York's infamously arcane and hyper-technical election laws.

Most followers of New York elections have a pretty good idea of how far behind our state is: Thirty-seven states enacted early voting before we did; 28 states and Washington, D.C., routinely allow no-excuse mail-in voting, but we still do not; and 16 states and D.C. have enacted automatic voter registration, but New York sticks to its clunky, error-prone procedures. For good measure, ask any voter about their experience at the polls, and you will hear tons of horror stories.

Worse, there are countless obscure provisions in our election law that prevent otherwise eligible voters from having their ballot actually count. The Queens district attorney race highlighted three.

First, 67 ballots by registered Democrats were thrown out because they forgot to write down on their affidavit that they were Democrats. Affidavit ballots are given to voters whose names do not appear in poll workers' registration books, and they must state their name, address and party affiliation. Affidavits with missing party IDs were no good — even though the board confirmed they were Democrats.

Second, dozens of ballots were cast by otherwise eligible Democrats at the wrong polling site. Here, too, the law was unforgiving: wrong poll site, invalid ballot. But why? The candidates on the ballot were exactly the same throughout the borough, and we have a statewide database, allowing the board to easily check the eligibility of the voter. This rule is especially anachronistic: In 2012, as a result of Superstorm Sandy, Gov. Andrew Cuomo issued an executive order allowing voters in certain counties to vote anywhere. The sky did not fall back then, yet the rule persists. In the district attorney race, these votes were discarded.

Finally, about 30 ballots were voided because there were minuscule stray marks on them. The law requires a ballot to be pristine, having no extraneous marks on it. The rationale is historical, when party bosses demanded their minions visibly demonstrate on their ballots that voters checked the organization's choice. So, if there is any scrawl or doodle on either side of the ballot that could be theoretically construed as intentionally placed there (beyond the vote itself), the vote does not count. Thus, little squiggles or curlicues that could never be traced to a voter's identity invalidated otherwise good votes (for both Caban and Katz).

A careful analysis showed that these lost votes did not change the result in the district attorney race. But they might in a future tighter contest. And while New Yorkers decry restrictive voting practices in Florida, Georgia or Texas, a close reading of our election law uncovers many such hurdles here at home. This is not acceptable. Picayune rules that stand in the way of a full and fair franchise should be eliminated.

It is one thing to oppose voter suppression in other states. It is quite another to fix our own laws. Albany should do it.

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