

Legal Issues in Interagency Data Sharing

Report for C.G.S. 4-67z

January 15, 2023

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Introduction

Pursuant to [C.G.S. Sec. 4-67z](#), the Chief Data Officer each year, in consultation with the Attorney General, agency data officers and executive branch agency legal counsel, will review “methods to facilitate the sharing of ...high-value data [of executive branch agencies] to the extent permitted under state and federal law, including, but not limited to, the preparation and execution of memoranda of understanding among executive branch agencies.”¹ This report provides an update on the development of these methods, through January 15, 2023.

The initial report on legal issues in interagency data sharing from 2020² included the following recommendations, which are based on survey results, review of data sharing agreements, analysis of state and federal laws and regulations, and consultation with state agency staff and national experts:

- I. **Establish a coordinated statewide governance structure for cross-agency data sharing:** The absence of a statewide governance structure leads to fragmented approaches to sharing data on high-priority issues which reduce the ability of the state to mobilize a response; and
- II. **Develop more flexible, durable data sharing agreements:** A proliferation of data sharing agreements makes oversight difficult and reduces the ability to protect clients’ data and manage risk.

In the past year, the state has made progress in three areas required to implement these recommendations, and the report describes each area in more depth:

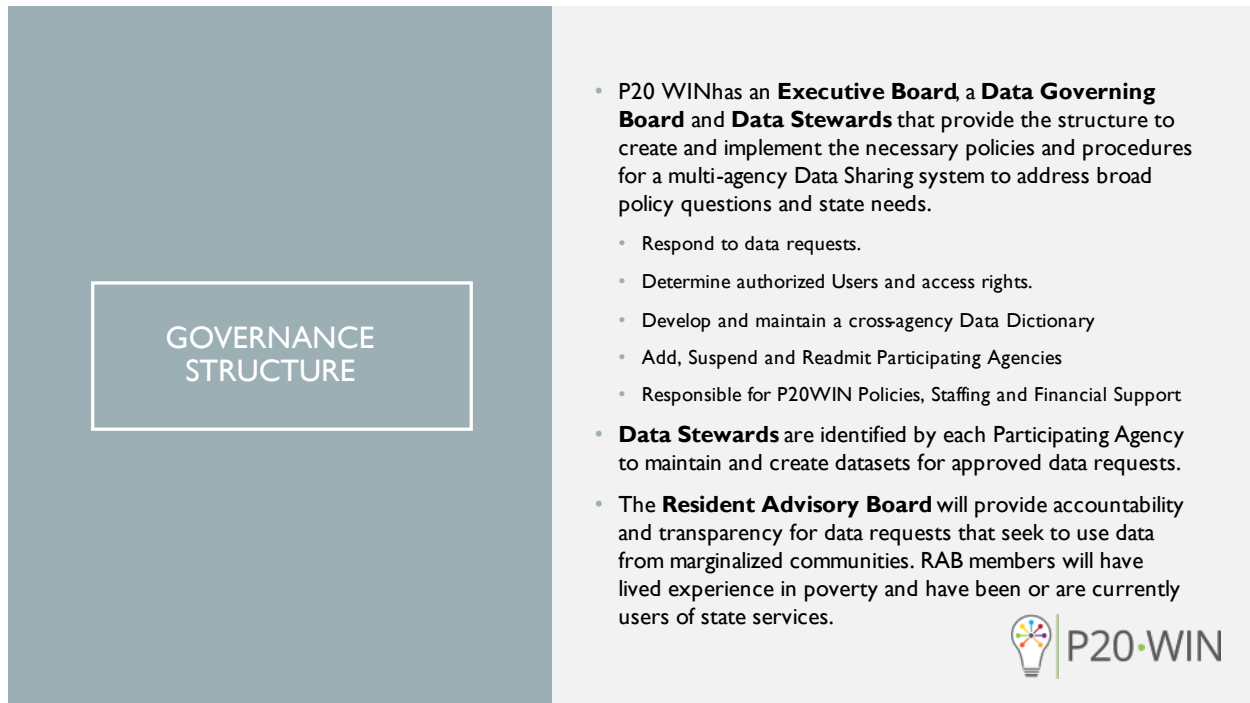
- I. **Coordinated statewide governance structure:** In 2022, the state continued to expand participation in the Preschool through 20 Workforce Information Network (P20 WIN) to provide a common framework for interagency data sharing. As of the time of this report, eleven agencies have joined P20 WIN as participating agencies, with planned further expansion in early 2023. Participation in P20 WIN lets agencies use a common set of policies, procedures, and templates for data sharing which enables the state to respond to high-priority issues in a coordinated fashion.
- II. **Flexible, durable data sharing agreements:** In 2022, template data sharing agreements were developed for the major legal and regulatory frameworks applicable to agencies participating in P20 WIN. The templates provide a flexible, durable way to define the data sharing process between agencies and with third parties. The templates have been developed and reviewed by agencies, the Office of the Attorney General (OAG) and the Privacy Technical Assistance Center of the Department of Education.
- III. **Process improvements:** Process improvements will facilitate the data sharing process, by providing transparency, facilitating deeper community engagement and assessing the potential disparate impact of data sharing efforts.

¹ Connecticut General Statutes, section 4-67z: https://www.cga.ct.gov/2020/sup/chap_050.htm#sec_4-67z

² The January 15, 2020 report is posted here: <https://portal.ct.gov/-/media/CT-Data/PA-19153-Legal-Issues-in-Interagency-Data-Sharing-Report-11520.pdf>

Coordinated Statewide Governance Structure

In support of the recommendation for coordinated governance, several changes occurred in 2022. As of this report, eleven agencies have signed enterprise agreements for the P20 WIN system.³ The agreement builds on and evolves the existing P20 WIN structure while maintaining a decentralized approach which allows each agency to retain administrative authority over their data. Program management for P20 WIN is provided by the staff of the Office of Policy and Management (OPM) Data and Policy Analytics unit, under the supervision of the Chief Data Officer (Operating Group). The graphic below describes the main elements of the governance structure for P20 WIN:



The function of securely linking the proposed data from participating agencies is undertaken through staff at the Connecticut Department of Labor (Data Integration Hub). Technical expertise is provided through participation of Bureau of Information Technology Services (BITS) in data governance.

The coordinated governance structure is further enabled by adopting a mission for P20 WIN that is focused on all aspects of individuals navigating state services. In 2021, Public Act 21-2, Section 250, June Special Session⁴ expanded the purpose of P20 WIN “to inform policy and practice for education, workforce and supportive service efforts,” covering the full cradle-to-career lifecycle and related health and human services supports. The changes to the statutory basis for P20 WIN expanded the types of

³ The agencies are: State Board of Education, Office of Early Childhood, Connecticut State Colleges and Universities, Department of Labor, University of Connecticut, Connecticut Conference of Independent Colleges, Department of Mental Health and Addiction Services, Department of Social Services, Office of Higher Education, Department of Children and Families, Connecticut Coalition to End Homelessness and Office of Policy and Management.

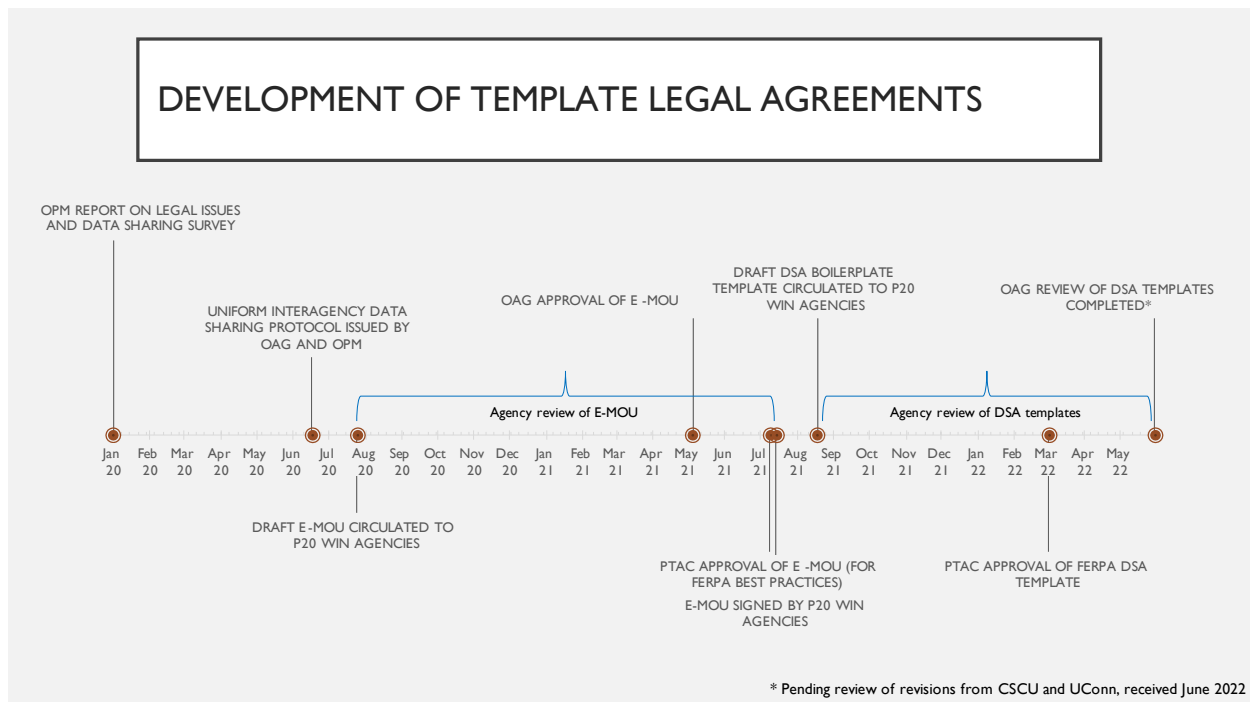
⁴ Public Act 21-2 can be found at: <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00002-R00SB-01202SS1-PA.PDF>

requests that P20 WIN can fulfill and clarified aspects of the governance framework, including a definition for the E-MOU and reconstituting the Executive and Data Governing Boards.

Flexible, Durable Data Sharing Agreements

The legal agreements for P20 WIN facilitate the decision-making and movement of data across agencies. The primary agreement for P20 WIN is an Enterprise Memorandum of Understanding (E-MOU),⁵ which sets forth the “rules of the road” for how data are shared for all current and future participating agencies. The United States Commission on Evidence-Based Policymaking recommended the Enterprise Memorandum of Understanding (E-MOU) as a “best practice” method for data sharing.⁶ The P20 WIN E-MOU was developed by the participating agencies in P20 WIN, OPM and OAG, in accordance with the framework and “uniform interagency data sharing protocol” shared in the prior year’s report.

Data sharing agreements (DSAs) are the agreements that describe sharing data across agencies for a specific, limited purpose, in accordance with the relevant state and federal laws and regulations. In 2022, we reached a milestone as agencies, OPM and OAG developed a series of template DSAs for P20 WIN to cover common scenarios for education, workforce and health and human services. The templates function similar to the ‘boilerplate’ language used for contracting and other written agreements – a template that can be modified easily for a specific agreement, without requiring development or review of an entirely new agreement.



⁵ A copy of the E-MOU and related documentation are maintained at:

<https://portal.ct.gov/OPM/P20Win/Governance>

⁶ The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking, September 2017.

The templates were developed in an iterative process over the past two years, described in the timeline above, which included review by state agencies, OAG and federal agencies where possible. The templates are crafted to work within the existing P20 WIN governance framework, although they can also be modified for ‘standalone’ use outside P20 WIN.

The “template” approach allows flexibility by tailoring agreements to the specific context for each agency and each request and promotes durability by developing templates that draw on common elements which can be re-used and revised as needed. Templates have been developed for the following legal and regulatory frameworks:

Template	Child welfare	Financial aid	Education	Homelessness	Medicaid	SNAP	TANF	Workforce and wage data
Relevant federal and state laws	Title IV-E and IV-B, CAPTA	Higher Education Act (FAFSA and student loans)	FERPA	HUD HMIS regulations and standards	Medicaid, HIPAA, C.G.S. § 17b-90	SNAP federal law (7 CFR § 272.8(a)(4))	TANF federal law (45 CFR § 205.50)	Unemployment compensation (20 CFR 603.4), CGS §31-254, WIOA, TAA, JFES, Apprenticeship
Process changes			Designation of authorized representative, improper disclosure bars recipient from data access for 5 years	Designates CCEH as HMIS lead agency	DOL and Recipient sign Business Associate Agreements; Specific requirements for SUD and HIV/AIDS data			Penalties for misuse of UC data
Agency coverage	DCF	OHE	OEC, CSDE, OHE, CSCU, CCIC, UConn	CCEH	DSS	DSS	DSS	DOL

The template DSAs contain the following common elements:

1. Responsibilities of data providers (the entities providing the data to be matched or linked; in P20 WIN terminology, Participating Agencies), including:
 - a. Duties when transmitting data, including security standards
 - b. Compliance with the governance process described in the E-MOU
 - c. Compliance with applicable and required legal and regulatory frameworks
2. Responsibilities of Data Integration Hub (the entity providing the data matching or linking services; in P20 WIN, fulfilled by the Department of Labor), including:
 - a. Data security, storage and transmittal standards
 - b. Standards and processes for granting access to and monitoring access to data
 - c. Compliance with standards for: use, data destruction and disclosure avoidance (removal of identifying information)
3. Responsibilities of Data Recipient (the entity requesting access to the linked or matched data, whether identified or de-identified), including:

- a. Approved Use and Data Elements for Project, including a process for review before dissemination and procedures for data retention and destruction
- b. Agreement to standards for data sovereignty and accuracy
- c. Description of processes for data security by the recipient, and limitations on use and access to the data
- d. Project reporting requirements and acknowledgment, including disclosure avoidance, and any financial understanding or fees

Process and Technical Improvements for Data Sharing

In addition to the changes in the legal and governance framework for data sharing, progress is also underway on process improvements and technical upgrades for interagency data sharing.

Transparency is critical to safe, ethical and secure sharing of data and has been added to the P20 WIN process at several points. In 2022, OPM and the participating agencies developed an [online data governance manual](#) and [data dictionary app](#), which describe the data accessible through P20 WIN and the policies and procedures for access in clear, non-technical language. These materials are integrated with a [Data Sharing Playbook](#) which provides more general guidance on data sharing for agency staff.

To foster public engagement and transparency, the two P20 WIN governing bodies held public meetings through 2021 and 2022. The Executive Board, featuring leadership from each agency, holds quarterly meetings, while the Data Governing Board meets monthly. Materials and recordings for these meetings are [posted on the P20 WIN website](#) and regularly updated, as are all requests and written agreements.

In addition, OPM, the Department of Social Services (DSS) and Office of Health Strategy (OHS) are collaborating to center racial equity and community voice in the governance and use of the state's expanding P20 WIN longitudinal data system, building on the State's Data Plan and Two-Generation Interagency Plan. The project was launched in 2022 and will continue through 2023 – 2024 to focus on developing sustainable strategies for incorporating resident perspectives in P20 WIN, assessing potential disparate impact of data integration efforts, and improving the collection and reporting of standardized race, ethnicity, and language data by state agencies.⁷

Conclusion

The intersection of the legal and governance framework and the supporting people, process and technology will serve to make data sharing more efficient, safe, ethical, equitable and secure. Coordinated data governance, through an expanded P20 WIN, will create a consistent process for development and review of interagency data requests, improving the experience for agencies and data requestors. Flexible, durable data sharing agreements will allow a consistent approach with templates that can be tailored to individual agency use. Process and technical improvements to the data sharing process will provide transparency and allow for data to be used to inform decision-making on an ongoing basis.

⁷ Support for this collaboration is through Actionable Intelligence for Social Policy, more details here: <https://aisp.upenn.edu/eiplc/>