

Legal Issues in Interagency Data Sharing

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

January 16, 2024

Table of Contents

Introduction.....	3
Coordinated Statewide Governance Structure.....	4
Flexible, Durable Data Sharing Agreements.....	5
Process and Technical Improvements for Data Sharing.....	8
Legal Update.....	8
Conclusion.....	8

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 16, 2024.

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 continued to make progress in three areas required to implement these recommendations, and the report describes each area in more depth:

- I. **Coordinated statewide governance structure:** In 2023, 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, fifteen (15) agencies have joined P20 WIN as participating agencies, with ongoing discussions with additional agencies in 2024. 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 2023, additional template data sharing agreements were developed for the major legal and regulatory frameworks applicable to agencies participating in P20 WIN; some data sharing agreements were developed pursuant to unique data sharing situations. 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. Additionally, based on the experience of the past

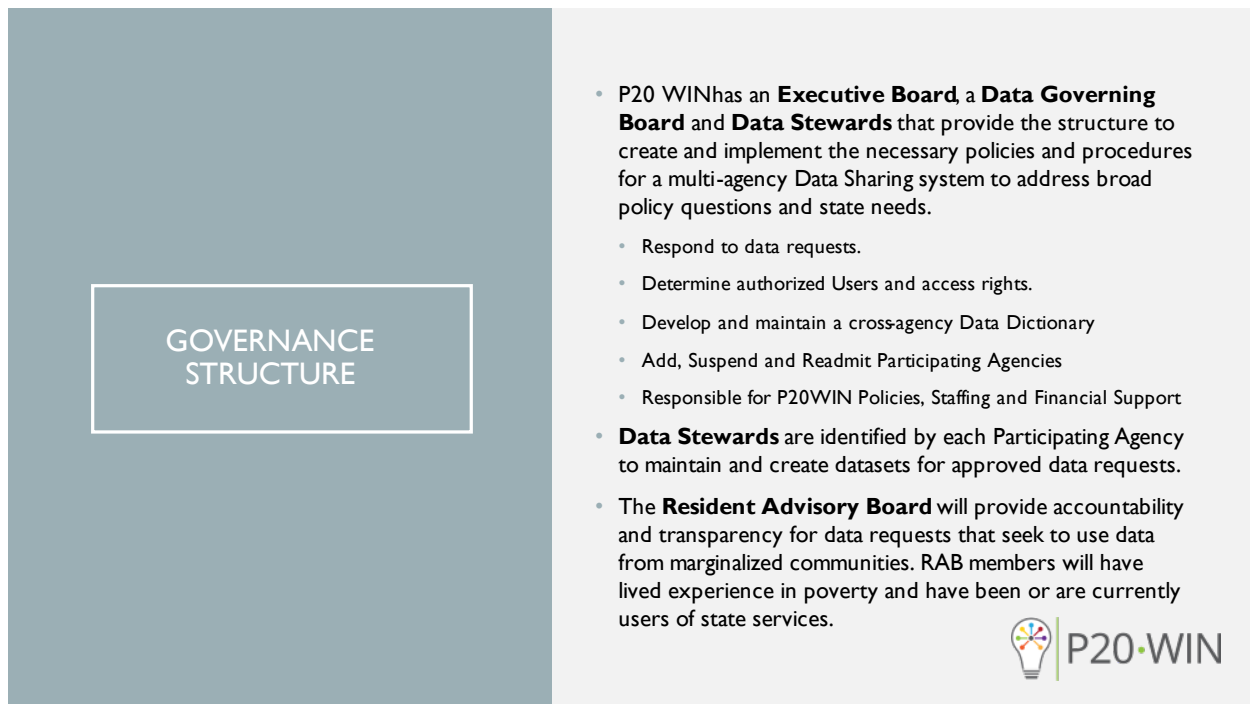
¹ Connecticut General Statutes, section 4-67z: https://www.cga.ct.gov/2020/sup/chap_050.htm#sec_4-67z

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>

several years, there are ongoing discussions of amending the overriding Enterprise Memorandum of Understanding (E-MOU) to further facilitate the data sharing experience.

Coordinated Statewide Governance Structure

In support of the recommendation for coordinated governance, several changes occurred in 2023. As of this report, fifteen (15) agencies, including executive and judicial branch 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 division, 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

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 Social Services, Office of Higher Education, Department of Children and Families, Department of Correction, Department of Mental Health and Addiction Services, State of Connecticut Judicial Branch Support Services Division, Connecticut Coalition to End Homelessness, Office of Workforce Strategy, Connecticut Technical Education and Career System and Office of Policy and Management.

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 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 2022 report to the Legislature.

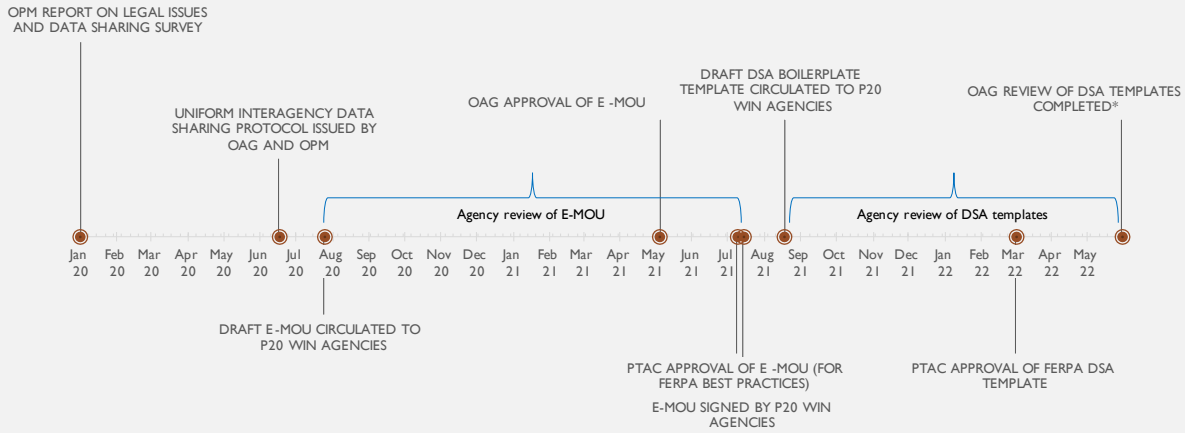
Data sharing agreements (DSAs) are the agreements that describe sharing data across agencies for a specific, limited purpose, and for specific agencies in accordance with the applicable relevant state and federal laws and regulations. In 2023, we continued to reach additional milestones as agencies, OPM and OAG developed additional template DSAs for P20 WIN to cover common scenarios for education, workforce, corrections, judicial services, and health and human services. The templates function similarly 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.

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

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.

DEVELOPMENT OF TEMPLATE LEGAL AGREEMENTS



* Pending review of revisions from CSCU and UConn, received June 2022

The templates were developed in an iterative process over the past three+ (3) 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. During 2023, templates have indeed been modified as “standalone” use outside P20WIN for the convenience of P20 WIN data providing agencies.

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 2023, OPM and the participating agencies introduced the P20 WIN data sharing process to potential participants by introducing them to the [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](#), an easy-to read document 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 2023. 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

The Department of Labor (DOL), BITS and OPM are working on development of a 'secure data enclave' and a security risk assessment, to identify any security risks in the current data sharing process and to recommend changes necessary for secure interagency data sharing and storage. OPM, BITS and DOL are working with the Data Integration Support Center (DISC) of WestEd for technical assistance on the assessment and a roadmap for changes. A plan is expected to be presented to the P20 WIN Boards in spring 2024.

Legal Update

A review of both relevant Federal and State laws passed during 2023 has assured us that the current governance process and data sharing agreements and process remain legal and appropriate. No changes or amendments are required.

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.

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

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.