

The Linked Information Network of Colorado

Enterprise Memorandum of Understanding

1. Preamble

Data sharing is often an indispensable component of cross system collaboration needed to achieve the best government solutions for the residents of Colorado. For this reason, it is important to make interagency data sharing more streamlined and efficient, increasing the integration and analysis of data across programs. At the same time, the state is committed to preserving and strengthening the critical privacy safeguards in place to protect Coloradans. In that spirit, this Enterprise Memorandum of Understanding (EMOU) has been developed for the Linked Information Network of Colorado (LINC) to facilitate an efficient culture of innovation and robust, data-driven cross system collaboration that shield against disclosure of protected data as required by law.

2. Parties

This LINC EMOU is entered into by the undersigned entities, hereafter collectively referred to as the "Parties." In order for any entity to be added as a Party to the EMOU, a joinder in the form of Exhibit A shall be executed. Such joinder does not constitute an amendment to the MOU. Its sole effect is to add an additional entity as a Party and bind such entity to the terms of the EMOU in their entirety.

3. Definitions

- a. Anonymized Data: Data that has been de-identified or anonymized by a method defined in an applicable Data Sharing Agreement.
- b. Confidential Data: Data submitted by the Data Provider that is not anonymized.
- c. Data Provider: An entity in the Party organization that has direct responsibility for a source of Confidential Data that can be contributed to approved LINC Projects. This may be an Office or Division of the Party organization, and in other cases it will be the Party itself.
- d. Data Sharing Agreement (DSA): An agreement between each Party and the Linking Hub that documents the specific terms and conditions for sharing Confidential Data to the Linking Hub for any approved LINC Projects. The DSA will include how Confidential Data is transferred and secured for LINC Data Recipients and will refer to this EMOU as needed. A Business Associate Agreement (BAA) is a type of DSA. The Party contributing Confidential Data and the Linking Hub will mutually determine whether a BAA is the preferred type of DSA.
- e. Data Use License (DUL): Agreement between the Linking Hub and the LINC Data Recipient that outlines the role and responsibilities of the LINC Data Recipient. The DUL shall include the LINC Project objectives, methodology, data description, data security plan, completion date, reporting requirements, data privacy requirements, and terms for data destruction. A standard DUL with terms will be approved by the Executive Committee.

- f. LINC Data Integration Staff: The individuals within the Linking Hub who will have the approved responsibility of handling and securing relevant Confidential Data from Parties for approved LINC Projects. The LINC Data Integration Staff will consult with Party staff, clean Confidential Data, link Confidential Data, and prepare Anonymized Data for LINC Projects.
- g. LINC Data Recipient: The individual or organization that makes a request to LINC for data analysis, research, or evaluation purposes. The LINC Data Recipient may be an employee from a LINC Party or an external researcher.
- h. LINC Director: The individual who is responsible for facilitating LINC committees, developing and managing partnerships with Party organizations, overseeing LINC staff, consulting with LINC Data Recipients, monitoring LINC Projects, and managing the inventory of documents associated with LINC operations and LINC Projects.
- i. LINC Executive Committee: The committee comprised of at least one representative from each Party that shall be responsible for establishing, reviewing, and implementing this EMOU and any applicable DSA, BAA, or DUL. This committee will also be responsible for appointing members of the Review Committee, setting priorities for LINC Projects, and reviewing/approving the fee structure used for LINC Projects.
- j. LINC Project: A project approved by the LINC Review Committee. A LINC Project must be analytic, research, or evaluative in nature. A LINC Project must require Confidential Data from two or more Data Providers and must be achievable by LINC Data Recipients with Anonymized Data.
- k. LINC Review Committee: The committee composed of representatives from each Data Provider within the Party with program or policy expertise and data expertise. At least one of these designated representatives must have decision-making authority over the use of their Confidential Data. The LINC Director will facilitate the LINC Review Committee but will not be a voting member.
- l. Linking Hub: The Linking Hub will reside in the Colorado Governor's Office of Information Technology under the supervision of the Chief Data Officer. Parties will transfer approved Anonymized LINC Project Data to the Linking Hub for linkage, cleaning, and anonymization as stipulated in any applicable DSA(s). The Linking Hub will be responsible for transferring the Anonymized Data for any LINC Project to the approved LINC Data Recipient under the terms of an applicable DUL.

4. Justification for Linked Information Network of Colorado (LINC)

The Parties share a mutual vision of more effective and responsive policies and programs for Colorado residents supported by timely and cost-efficient data analysis, research, and evaluation using integrated data across respective Parties. The Parties have concluded that LINC is needed to achieve this vision in many cases. LINC is a collaborative among the Parties that includes participation in the governance framework described in this EMOU, as well as usage of the Linking Hub for LINC Projects.

LINC will use a federated approach to data sharing, where each Party maintains their own Confidential Data and Confidential Data are only transferred to the Linking Hub for approved LINC Projects. The Linking Hub will not serve as an ongoing Data warehouse, unless that is specifically agreed upon in the DSA between the Party and the Linking Hub.

This EMOU does not obligate Parties to use LINC in all cases if a different pathway for project approval and data linkage is preferred by Parties whose data are requested.

The Parties have concluded that LINC makes improved data sharing possible by:

- Establishing consistent data sharing and linking processes that adhere to all applicable state and federal laws, rules, and authoritative policies and guidelines
- Limiting the transfer of Confidential Data to only a centralized linking hub that employs staff with the required expertise and authorization to handle such Confidential Data
- Reducing the burden on Parties' legal counsel and data management teams
- Taking a person- or family-centered approach to data use as opposed to an exclusively institution-centered approach.
- Building capacity for routine cross system data-driven collaboration
- Increasing the efficiency of data sharing for cross system research and analytic needs

5. Purpose of the EMOU

The Parties jointly enter the EMOU. The purpose of the EMOU is to establish the governance framework necessary to operate LINC, including processes for establishing LINC priorities, requesting data, reviewing and determining approval for LINC requests, monitoring LINC Projects, and disseminating LINC Project information to appropriate LINC committees. The governance framework of this EMOU is accompanied by a DSA) between each Party and the Linking Hub as well as a DUL.

6. Financial Understanding

The services of LINC will be supported through a fee-for-use model. The LINC fee will only be charged to LINC Data Recipients. Parties of this agreement will not be charged to participate in LINC unless they are LINC Data Recipients. This fee may include the costs incurred by Parties to this agreement for their efforts to provide data. The detailed fee structure will be developed by the LINC Director and will be approved by the LINC Executive Committee before implementation.

7. LINC Governance Framework

A. LINC Project Priorities

There are two ways that priorities will be established for LINC. The first is for each Party organization to establish criteria for a request of their data to be considered (e.g., federal requirements established for end uses, priority data uses of the Party organization; restrictions based on project funding sources). The second is for the Executive Committee to establish cross-system analytic, research, and evaluation topic areas that would benefit

from using LINC. These priorities will be made publicly available in order to filter LINC requests to those that have the greatest potential for actionable information among the LINC Parties.

B. LINC Project Request Process

The request process is intended to be transparent, efficient, and provide the LINC Review Committee with the information needed to review a LINC Project request. The process is structured to increase the value of LINC Project proposals to multiple stakeholders using the expertise of the LINC Review Committee, as opposed to solely functioning as an administrative review process. The request process will consist of two steps (1) consultation with the LINC Director and (2) submission of a request form.

1. Consultation with the LINC Director. Requestors shall complete an initial screening form and schedule a phone or in-person consultation with the LINC Director to discuss their proposed project. The initial consultation will screen out projects that are not appropriate for LINC, including those that cannot be answered through available data, those that can be fulfilled by a single Data Provider and does not require cross-system integration, or those that do not fit within one or more LINC priority areas. This consultation will also provide guidance on the request form for appropriate proposals. The LINC Director will provide the requestor with an estimated fee for the LINC Project before the proposal is submitted to the LINC Review Committee.
2. Submission of a Request Form. The request form is intended to capture the information the LINC Review Committee consistently needs to make a decision on LINC Project proposals. The LINC request form and submission process is reviewed and approved by the LINC Review Committee. At minimum, the request form is anticipated to include:
 - a. Purpose (general data analysis, research, or evaluation)
 - b. Objectives (primary questions being answered)
 - c. Party sponsor (name and contact information)
 - d. Benefit to primary organization(s)
 - e. Population of study (e.g., age, demographics, geography, years)
 - f. Data sources (program or organization directly associated with Data Provider)
 - g. Data elements
 - h. Design and analytic method
 - i. Project start and end date (anticipated release of findings to partners)
 - j. Funding source(s) and estimated fee for LINC Project
 - k. Key personnel and their credentials
 - l. IRB approval (or submission date) if applicable
 - m. Data security plan that meets minimum requirements for Anonymized Data

C. LINC Project Review and Decision Process

The review process is intended to simultaneously review and strengthen LINC Project proposals. The LINC Director will perform an initial review of all proposals as described below, and the LINC Review Committee will make the decision on the LINC Project (i.e., reject, revise, approve) according to the following guidelines.

1. LINC Director initial review. The purpose of the initial review is to ensure that only responsive LINC Project submissions are forwarded to the LINC Review Committee. The initial review will be limited to the following:
 - a. Confirming that the request form is complete (i.e., no blank fields)
 - b. Ensuring the request targets at least one established LINC priority
 - c. Contacting the identified Party sponsor to verify commitment to the LINC Project
 - d. Confirming the data security plan meets requirements.

Non-responsive requests will be returned with feedback to the requestor. Responsive requests will be forwarded to the LINC Review Committee.

2. LINC Review Committee review and decision. This committee will convene quarterly in person or virtually, with the agenda and meeting dates publicly available. The LINC Review Committee composition is proposal specific, meaning only Data Providers whose data are requested are voting members for a particular LINC Project proposal. Each Data Provider will nominate at least one representative to the LINC Review Committee who will be responsible for reviewing LINC Project proposals for ethical considerations (e.g., benefits versus risk of the LINC Project focus area) and methodological considerations (e.g., appropriate data elements and analytic approach).

Data Providers have veto power over the use of their own data only. But when invoking veto power, they must provide a clear rationale for why their data cannot be used for the request or may provide alternative data options to meet needs of request. LINC Review Committee members will be given the opportunity to offer solutions to address the reason for the veto during the Review Committee meeting. If there is no solution that addresses the reason for the veto to the satisfaction of the Data Provider, the veto will stand.

LINC Director and support staff shall communicate LINC Review Committee schedules and require the requestor to be available to answer questions during the meeting, either virtually or in person. The specific review procedures shall be approved by the LINC Review Committee and allow reasonable flexibility for virtual participation, proxy membership, and email voting. Key steps in the process include:

- a. Prior to the LINC Review Committee meeting, members of the committee shall complete a standard LINC Project review rubric and will make an initial

recommendation of reject, revise, or approve. The expectation is that LINC Review Committee members will have consulted as needed within their organization prior to the meetings or bring to the meeting representatives so that a decision can be made.

- b. The LINC Director and support staff shall synthesize the initial review information from LINC Review Committee members prior to the quarterly meeting and facilitate the discussion during the meeting. During the discussion, LINC staff shall synthesize reviewer comments on the proposals and will contribute to the conversation as it relates to the Linking Hub's role in LINC Projects.

- c. Each LINC Party that has data being requested for a LINC Project proposal will have one vote. Voting decisions include:

Approve: Does not require substantive changes or clarification to the proposal. The LINC Review Committee may require minor changes or offer suggestions to strengthen the project proposal. The proposal does not need to return to the full committee, and the LINC Director can oversee the required changes and update the LINC Review Committee.

Revise: Requires changes or clarification to the proposal that necessitate further LINC Review Committee consideration. The LINC Review Committee will typically consider revised proposals at the next quarterly meeting. Expedited reviews of revised proposals can occur at the LINC Review Committee's discretion.

Reject: The potential benefits to the LINC Project proposal do not outweigh identified concerns or flaws. There is no appeal process, decisions are final.

- d. Approval must be given by all Data Providers involved in the LINC request (unanimous approval). Should one or more Data Providers reject a request of their data, the LINC Project proposal can be revised to remove the data that was not approved and be resubmitted. A standard decision form will be completed and signed by participating LINC Review Committee members at the meeting.
- e. The LINC Director shall send LINC Review and Executive Committee members a summary of LINC Project decisions. The LINC Director will consult as needed with the Executive Committee to prioritize LINC Project timelines.
- f. The LINC Director shall send a letter to the requestor conveying the decision, synthesizing reviewer comments, and outlining next steps (if applicable). A timeline and final cost estimate shall also be provided for approved projects.

D. Data Management Process

The Data Management Process applies only to approved LINC Projects. All aspects of the Data Management Process are initiated by the Linking Hub staff, with specific roles referenced below when applicable.

1. The Linking Hub shall execute a DUL with the LINC Data Recipient. The DUL will specify data security requirements, the cell suppression policy for public dissemination (e.g., reports, presentations, publications), and will conform to any and all Party-specific requirements.
2. The LINC Data Integration Staff shall follow the terms of the DSA(s) with Parties whose Confidential Data are included in the LINC Project. The process for electronically retrieving or transferring approved Confidential Data to the Linking Hub may vary by Data Provider and is detailed in the DSA(s). The expectation is that approved Confidential Data will be provided to the Linking Hub within 45 days of LINC Project approval. Parties shall alert the LINC Director during the LINC Review Committee meeting if the 45-day timeline is not feasible.
3. The LINC Data Integration Staff shall adhere to all applicable state and federal laws, rules, and authoritative policies and guidelines for training and authorization to handle the Confidential Data from participating Parties. The LINC Data Integration Staff will be responsible for securely receiving and storing Confidential Data from each Party as outlined in the DSA(s).
4. The LINC Data Integration Staff shall use standardized and replicable identity resolution strategies to integrate the Confidential Data for LINC Projects. Parties may consult with the LINC Data Integration Staff about preferred approaches as desired. The Linking Hub shall report the identity resolution match rates and the accuracy of matches using a standard reporting form to both the Data Providers and the LINC Data Recipients for each LINC Project.
5. A process for such anonymization will be developed by LINC staff and approved by the LINC Review Committee before it is used in practice. The LINC Director shall confirm that the anonymization method is consistent with the LINC Review Committee's approved anonymization approach for LINC Projects as well as relevant DSAs. In all cases, LINC Projects will use the minimum required Confidential Data to achieve the approved goals.
6. The LINC Data Integration staff will securely transfer the Anonymized Data to the LINC Data Recipients under the agreed upon terms of the DUL.
7. After LINC Project Anonymized Data are provided to the LINC Data Recipient, the Linking Hub will store, return, or destroy Confidential Data and Anonymized Data from each Party according to the DSA(s).

8. Any and all data that are protected under federal and state privacy regulations will not be shared through Colorado Open Records Act (CORA) requests. LINC will always comply with these federal and state laws and will default to sharing Anonymized Data only with the approved LINC Data Recipient. For information and data that are not protected under federal or state privacy regulations and that are subject to CORA, the LINC Executive Committee shall be responsible for developing and approving a policy for how LINC will respond to CORA requests.

E. Oversight of LINC Projects

Oversight processes for the LINC Projects are intended to facilitate transparency and mutualism. Transparency ensures that all stakeholder have information about compliance with legal and ethical requirements as well as the outcome of projects. Mutualism refers to all Parties, the Linking Hub, and LINC Data Recipients having consistent and timely communication so the projects can benefit their organizations and the lives of Coloradans.

Should a LINC Data Recipient use the LINC Project Anonymized Data for purposes that were not approved, a LINC Data Provider will immediately terminate access to their data by the LINC Data Recipient. It is the responsibility of the LINC Director to communicate and confirm this terminated access.

The LINC Director shall monitor timely completion of the following documents: (1) Regular Project Reports, (2) Key Findings and Interpretations Release Requests and (3) Term Limit and Data Destruction Forms. LINC Data Recipients shall initiate on an as needed basis (4) Change Reports and (5) Project Updates and Announcements.

1. Regular Project Reports (REQUIRED): LINC Data Recipients must submit project reports to the LINC Review Committee, annually or at the midterm point of the project cycle, whichever comes first. The report shall be a standard form automatically distributed by the LINC Director or support staff and shall require:
 - IRB approval documentation
 - Summary of progress to date
 - How project is informing policy or practice
 - Description of unanticipated findings
 - Description of challenges encountered and how they are being resolved
 - Products and key findings publicly released to date
 - Project funding source (if applicable)
2. Change Requests (AS NEEDED): LINC Data Recipients will initiate, when necessary, a LINC Project change request. Minor requests (e.g., change in key personnel, a first-time extension of up to six months) will be reviewed by the LINC Director. Major requests (e.g., additional research questions; change in organization conducting analyses) will be reviewed by the LINC Review Committee.

3. Key Findings and Interpretations Release Request (REQUIRED): LINC Data Recipients are required to share LINC Project findings to the LINC Review Committee prior to any public release. LINC Data Recipients shall submit key findings and interpretations in a standard format provided by the LINC Director or support staff. LINC Review Committee members shall confirm in writing, via a standard form, that key findings have been reviewed and are ready for release. The LINC Review Committee members can request product specific reviews (e.g., presentations, publications).
4. Project Updates and Announcements (OPTIONAL): LINC Data Recipients may initiate at any time a project update or opportunity. These reports are a way to share newly released products, media coverage, or announcements for interested parties to attend a dissemination event or be updated on policy or practice informed by the project.
5. Certification of Project Completion & Destruction of Data (REQUIRED): This is a standard form automatically distributed by the LINC Director or support staff and shall require confirmation of data destruction consistent with the DUL.

F. LINC Communications

1. The LINC Review Committee shall receive prior to each quarterly meeting (a) Regular Project Reports as appropriate for each LINC Project timeline, (b) Major Change Requests, and (c) summary of Minor Change Requests and Destruction of Data Reports to get necessary feedback.
2. Executive Committee shall receive after each quarterly meeting an update on LINC's use, review results, key findings from existing projects, opportunities to learn more about projects that are in the dissemination phase, and abstracts of new LINC Projects.
3. The Public shall have access to the communications to both the LINC Review Committee and the Executive Committee.
4. The LINC Review and Executive Committee members shall alert the LINC Director about any concerns regarding fulfillment of LINC projects and any of the governance processes outlined in this EMOU. The LINC Director will be responsible for working with the LINC Parties to resolve any concerns. The LINC Parties can decide to suspend LINC involvement until the concerns are resolved.

8. Counterparts.

This EMOU may be executed in one or more counterparts, each of which shall be considered to be one and the same agreement, binding on all Parties hereto, notwithstanding that all Parties are not signatories to the same counterpart. Furthermore, duplicated signatures, signatures transmitted via facsimile, or signatures contained in a Portable Document Form (PDF) document shall be deemed original for all purposes.

9. EMOU Effective Date and Terms.

The effective date of the EMOU shall be the date of the signature below. The EMOU will remain in effect until the LINC Executive Committee terminates the EMOU. An individual Party to the EMOU can end its involvement upon a termination request by their appointed Executive Committee member. Termination halts all future LINC requests for that Party's data, but LINC Projects approved prior to termination will be completed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

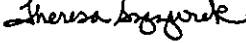
<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, GOVERNOR</p> <p style="text-align: center;">Governor's Office of Information Technology Theresa M. Szczurek, Ph.D., Chief Information Officer and Executive Director</p> <p style="text-align: center;"></p> <hr/> <p style="text-align: center;">Date: <u>July 26, 2019</u></p>
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EXHIBIT A

Joinder Agreement

Pursuant to, and in accordance with the Linked Information Network of Colorado Enterprise Memorandum of Understanding (EMOU), effective _____, 20____, as may be amended from time to time, the entity signing this Joinder Agreement (the "New Party") hereby acknowledges that it has received and reviewed a complete copy of the EMOU. The New Party agrees that upon execution of this Joinder, it shall become a Party, as defined in the EMOU, to the EMOU and shall be fully bound by and subject to all of the terms and conditions of the EMOU. In witness thereof, the New Party has caused its duly authorized representative to execute this Joinder Agreement, as follows:

[New Party's Name]
By: _____

[Name of Official, Title]
Date: _____