Memorandum

TO: Foster Care and Close to Home Providers

From: Ina Mendez, Interim Deputy Commissioner, Family Permanency Services
Nancy Ginsburg, Deputy Commissioner, Division of Youth and Family Justice
Dr. Angel Mendoza, Chief Medical Officer

Date: July 6th, 2022

Subject: Updated Consent Protocol for COVID-19 Vaccine for Youth in Foster Care/Close to Home

- **Section 1: The Pfizer and Moderna Vaccines authorized for emergency use for children and adolescents** The Pfizer COVID-19 vaccine is authorized for emergency use for children and youth from 6 months-15 years old including the booster dose for all children and youth.

- The Moderna vaccine ages is authorized for emergency use for children and youth from 6 months-17 years old administered as a two-dose series. **Moderna has not yet received approval for booster doses for children/youth under 18.**

- Consent must be sought from the child/youth’s parent or legal guardian prior to vaccinating a child/youth ages 6 months-15 years (Pfizer) or 6 months-17 years old (Moderna), unless parental rights have been terminated or surrendered. The case planner must obtain the signature of the child/youth’s parent or guardian on the NYS Department of Health consent. Current links to the consent form are included here; please check the NYS Department of Health website as links are subject to change as consent forms are updated.

- If a child/youth is remanded or placed on an Article 10 or destitute child petition and the parent or guardian’s whereabouts are unknown or the parent or guardian cannot be located, this must be documented in the case file and the Executive Director of the provider Agency (or designee) may consent to the vaccination. If a parent or guardian states that they consent but, for logistical or other reasons, the case planner is unable to obtain the actual signature within a day of that statement, the case planner must document the parent or guardian’s statement in the case file and proceed to obtain the appropriate agency signature on the consent form.

- If a child/youth is remanded or placed on an Article 10 or destitute child petition and the parent or guardian affirmatively objects to the administration of the vaccine, the child/youth may not be vaccinated without a court order. Provider agencies must reach out to FCLS to determine whether a court order for vaccination is reasonable/feasible.
• If a child/youth is remanded or placed on a PINS petition, placed in Close to Home, or placed on a Voluntary Placement Agreement and the parent or guardian does not consent to the administration of the vaccine, the child/youth may not be vaccinated without a court order. Provider agencies must reach out to FCLS to determine whether a court order for vaccination is reasonable/feasible.

• If parental rights have been terminated or surrendered, the provider agency, as the child/youth’s legal guardian, may consent to the administration of the vaccine.

• NOTE: If there is disagreement between the child/youth and the parent or guardian about whether the child/youth should receive the vaccine, the case planner must elevate the situation to foster care agency leadership and FCLS.

Section 2: Pfizer Vaccine for Youth Ages 16-17 (Full FDA Approval)

• The FDA has issued full approval of the Pfizer COVID-19 vaccine (including booster dose) for individuals aged 16 and older, and as such, the Pfizer COVID-19 vaccine is considered routine medical care for this population.

• Clinicians shall provide all youth with a developmentally appropriate explanation of the vaccine and the opportunity to ask and receive explanations to any questions. These discussions should occur in a safe, trusting, neutral and confidential environment.

• When a 16-17-year-old youth has the capacity\(^1\) to make the decision, the youth’s written assent (agreement) to the vaccine must be obtained and placed in the youth’s case record, in order to administer the vaccine. The assent of a youth with capacity together with the consent of the Commissioner’s designee are needed in order for the youth to be vaccinated.

  o Designees of the Commissioner (Provider Executive Directors or their designees) may consent to the Pfizer COVID-19 vaccine by signing the DOHMH vaccine consent form or other consent form for the provider for the following categories of youth in foster care who are 16-17 years old and who wish to be vaccinated:
    ▪ Youth remanded or placed on Article 10 (abuse/neglect) petitions
    ▪ Youth remanded or placed on destitute child petitions
    ▪ Youth placed on Voluntary Placement Agreements
    ▪ Youth placed in Close to Home on Article 3 (delinquency petitions)
    ▪ Youth freed for adoption

• In the case of a 16-17-year-old youth who does not have the capacity to assent:
  o Youth who are not legally free: case planner must elevate the situation to the attention of agency leadership and FCLS.
  o Youth who are legally free: the provider agency (as the Commissioner’s designee) may consent to the vaccine.

• As with all medical treatment and care, parents or guardians should be notified that their youth will be receiving the vaccine and parents or guardians may attend the appointment, unless there are court orders preventing such. Parents or guardians must also be notified as soon as possible after the vaccine is administered. Parental or guardian’s consent is not required for the Pfizer COVID-19 vaccine for youth aged 16-17 in the above categories who have capacity and who want to receive the vaccine. Even if a parent or guardian cannot be

\(^{1}\) “Capacity” means ability to understand relevant information and make an informed decision.
located or affirmatively objects, no override or authorization from ACS is required for a youth aged 16 or older who has capacity and wishes to be vaccinated to receive the Pfizer COVID-19 vaccine.

- If a 16-17 year old youth who is not in one of the above categories (e.g. delinquency remand or PINS remand or PINS placement) wishes to receive the vaccine and the parent or guardian has not consented, either because the parent or guardian affirmatively objects or because they cannot be reached or located, the agency may not sign the consent form and must reach out to FCLS about the reasonableness/feasibility of seeking a court order.

**Youth 18+ and Youth of Any Age Who are Pregnant or Parenting**

Youth in foster care who are 18 and older, and/or who are pregnant or parenting, can consent for themselves to receive the COVID-19 vaccine, unless they have a court appointed guardian with that authority.