



Office of Children and Family Services

KATHY HOCHUL
Governor

SHEILA J. POOLE
Commissioner

Memo

To: Facility Directors and Assistant Directors, Facility Managers, Facility Nurse Administrators

From: Dr. Joseph E. Tomassone, *Acting Associate Commissioner*
Robert M. MacGiffert, *Associate Commissioner*
Dr. James Horne, *Chief of Medical Services*

Date: September 29, 2021

Re: Youth in OCFS Custody and Assent/Consent to COVID-19 Vaccination

OCFS Authority, COVID-19, and Information to Parents/Caregivers

Family Court Act § 355.4 and Penal Law § 70.20 generally grant consent for OCFS to provide routine medical, dental, and mental health services to youth. In accordance with *Medical and Dental Care for Youth: Consent and Refusal* (PPM 3243.14), OCFS' practice is to give parents/guardians information about and involve them in medical decisions about minor youth in OCFS custody.

Since the beginning of the pandemic, OCFS has regularly provided written and verbal information to parents/caregivers about COVID-19, youth vaccination opportunities, COVID-19 guidance at facilities, and best practices once a youth transitions from OCFS care. This information has included notices about COVID-19 and youth well-being, notice of youths' eligibility for vaccination, a vaccination FAQ one-sheet, information about the Delta variant, and outreach to families from facility and community case managers. OCFS has also made its COVID-19 guidance [publicly available](https://ocfs.ny.gov/main/news/covid-19/guidance.php).¹ OCFS will continue to provide information about COVID-19 and best practice updates to parents/guardians throughout a youth's custody.

Routine Medical Service and Youth Informed Assent/Consent to COVID-19 Vaccination

In accordance with section II (G) of PPM 3243.14, OCFS considers vaccination against COVID-19 a routine medical service. A youth who is **age 16 and older** and in the custody of OCFS may provide their own informed assent (applies to youth under age 18) or informed consent (applies to youth over age 18) to be vaccinated against COVID-19. **The youth's informed assent/consent is determinative**, without regard to their parent's or guardian's stated or unstated position on vaccination.

Informed consent/assent is only valid if a youth does so in a signed attestation. **A youth may withdraw their assent/consent at any time**, verbally or in writing. A youth may withdraw assent consent either before their first dose or in the middle of a two-dose regimen. Assent/consent and withdrawal must be documented in the youth's medical record.

If a youth age 16 or 17 gives informed assent to be vaccinated against COVID-19, OCFS will timely notify their parent/guardian that the youth will be receiving the vaccine. OCFS will update the youth's parent/guardian after the vaccine is administered.

¹ <https://ocfs.ny.gov/main/news/covid-19/guidance.php>.

Facilities will facilitate vaccination according to the procedures outlined in [OCFS/OMH Partnership for Direct Access to OMH Vaccine Sites for Facility Staff and Eligible Youth](#)² and/or through local connections to vaccination providers. If a youth declines to give assent/consent or withdraws assent/consent to be vaccinated, OCFS will not facilitate vaccination.

Approved Vaccines

Which vaccine an assenting/consenting youth will receive is determined by the CDC, FDA approval, and/or, emergency use authorizations. The Pfizer and Moderna vaccines are available through the OCFS-OMH partnership.

Vaccination Decision Grids

Youth is 16 or 17	Youth Gives Informed Assent	Youth Denies/Withdraws Assent
Parent or Guardian Gives Consent	Facilitate vaccination	No vaccination
Parent or Guardian Denies Consent	Facilitate vaccination	No vaccination
Parent or Guardian Is Non-Responsive	Facilitate vaccination	No vaccination

Youth is 18+	Youth Gives Informed Consent	Youth Denies/Withdraws Consent
Parent or Guardian Gives Consent	Facilitate vaccination (defer to adult youth)	No vaccination
Parent or Guardian Denies Consent	Facilitate vaccination (defer to adult youth)	No vaccination
Parent or Guardian Is Non-Responsive	Facilitate vaccination (defer to adult youth)	No vaccination

CC:

S. Miles-Gustave
 F. Reid
 C. Hernandez
 R. MacGiffert
 R. Strauser

T. Bromirski
 M. Williams
 T. Boniface
 J. Greening
 J. Guo

N. Aledort
 K. Sena
 N. Steinbock-Pratt

² <https://ocfs.ny.gov/main/news/2021/DJJOY/COVID19-2021Feb27-DJJOY-Access-to-OMH-Vaccine-Sites.pdf>.