

OPINION
45-23

June 4, 1945 (OPINION)

ATHLETIC

RE: Commission - Waiver by Parent or Guardian

This will acknowledge your letter of May 28, in which you enclose a form of waiver that has been used by the State School of Science in connection with its Golden Gloves Tournament.

I believe the first part of the waiver which reads, "I hereby for myself, my heirs, executors and administrators waive and release any and all rights and claims for damages I may have against all other entrants and against The State School of Science, its sub-committees, agents, representatives and assigns for any and all injuries to me at said Golden Gloves Tournament," is a sufficient waiver, if signed by anyone over the age of twenty-one years.

As to the second part of the waiver, which reads: "In consideration of the State School of Science accepting this entry in the Golden Gloves Tournament, I, as the parent or legal guardian of the entrant, do hereby release all other entrants and the sponsors of any claims for injuries sustained by the said entrant, and furthermore, I agree to defend and indemnify the State School of Science against any loss due to injuries sustained by the aforementioned entrant while participating in the Tournament," could only be effective as a release and a waiver by the father or the mother, if signed by either, or of both, if signed by both, of the entrant, then only of their right to seek damages personally and on behalf of themselves or both of them for injuries to the entrant or any damages to him by virtue of any accident that might befall him while participating in a Golden Gloves Tournament. I do not believe that this waiver, if signed by a guardian, would be effective or bind the heirs of any ward, when signed by a guardian, unless and until the guardian had procured an order from the court in which the guardianship was pending, duly authorizing him to enter into such a waiver.

A guardian of a minor has only such powers as are granted to him by law. He cannot bind his ward nor the heirs of such minor or ward, unless he has proper authority to do so. This authority he can obtain upon proper showing and hearing in the court in which the guardianship proceedings are pending.

NELS G. JOHNSON

Attorney General