

**06-427 TN SECONDARY SCHOOL ATHLETIC ASSN. V. BRENTWOOD
ACADEMY**

DECISION BELOW:442 F3d 410

LOWER COURT CASE NUMBER: 03-5245, 03-5278

QUESTIONS PRESENTED:

The Tennessee Secondary School Athletic Association is a voluntary association, composed primarily of public schools, which adopts rules governing athletic competition between its members. Brentwood Academy is a private school that voluntarily chose to join TSSAA and agreed to abide by its rules, but now claims a First Amendment right to continue competing while violating TSSAA's rule against the use of "undue influence" in recruiting students for athletic purposes. The Sixth Circuit agreed, reasoning that Brentwood's voluntary agreement is irrelevant to the constitutional analysis and declining to recognize any substantial state interest in fair and level athletic competition. The question presented in this case is: Whether the Sixth Circuit correctly held, in conflict with decisions of this Court and other courts of appeals, that TSSAA violated the First Amendment and Due Process rights of Brentwood Academy when it imposed contractual penalties for violations of the recruiting rule that Brentwood agreed to follow?

CERT. GRANTED 1/5/2007