

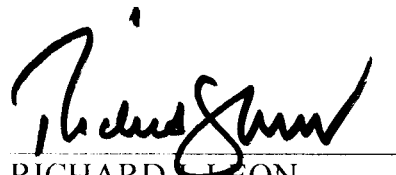
not survive a motion to dismiss. *James Madison Ltd. v. Ludwig*, 82 F.3d 1085, 1099 (D.C. Cir. 1996). Such is the situation here.

Plaintiffs' proposed amendment would be futile because the count they seek to add to their Complaint would not survive a motion to dismiss. Simply put, plaintiffs' claim regarding the inadequacy of the transcript they received from the District is not cognizable in this jurisdiction. At best, the District's failure to provide an adequate transcript amounted to procedural error under the IDEA. *See* 20 U.S.C. § 1415(h)(3) (providing parents "the right to a written . . . verbatim record"); *O.O. v. District of Columbia*, 573 F. Supp. 2d 41, 48 (D.D.C. 2008). Procedural errors, however, do not amount to viable claims under the IDEA unless they affect a student's substantive rights. *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006). Indeed, the proposed Amended Complaint does not even allege that J.A.'s substantive rights suffered in any way as a result of the incomplete transcript. Accordingly, it is hereby

ORDERED that plaintiff's Motion to Amend [#8] is DENIED, and it is further

ORDERED that defendant's Motion to Remand [# 10] is GRANTED. The matter is REMANDED to the Hearing Officer to determine the appropriateness of DCPS' proposed placement of the student at Janney Elementary School for school year 2008-2009.

SO ORDERED.



RICHARD J. LEON
United States District Judge