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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEXA RUSSELL; et al., Plaintiffs - Appellants, v. DEPARTMENT OF EDUCATION, STATE OF HAWAII; et al., Defendants - Appellees.	No. 07-17126 D.C. No. CV-03-00654-HG/BMK MEMORANDUM [*]

Appeal from the United States District Court
for the District of Hawaii
Helen Gillmor, District Judge, Presiding

Submitted April 5, 2010 [**]

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Alexa and George W. Russell, and their son Laak Russell, appeal pro se from the district court's judgment affirming an administrative decision in favor of

[*] This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

[**] The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

the Department of Education for the State of Hawaii ("DOE") under the Individuals with Disabilities Education Act ("IDEA"). We have jurisdiction under 28 U.S.C. § 1291. We review for clear error the district court's findings of fact and review de novo its conclusions of law. *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 817 (9th Cir. 2007). We affirm.

The district court properly concluded that the DOE did not deny Laak a "free appropriate public education" under the IDEA by withholding mileage reimbursement for transporting Laak to and from school because the Russells failed to provide proof of automobile insurance or submit any reimbursement forms as required by the parties' agreement. *See* 20 U.S.C. § 1400(d)(1)(A); *Van Duyn*, 502 F.3d at 815 (holding that a school district "does not violate the IDEA unless it is shown to have materially failed to implement the child's [individualized educational program]"). The district court also properly denied the Russells' claim for emotional, general, and punitive money damages because such relief is not available under the IDEA. *See Blanchard v. Morton Sch. Dist.*, 509 F.3d 934, 936 (9th Cir. 2007).

We do not consider the Russells' contentions raised for the first time on appeal. *See Whittaker Corp. v. Execuair Corp.*, 953 F.2d 510, 515 (9th Cir. 1992).

AFFIRMED.