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IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CAROLYN GAMMON,)	
)	
Plaintiff/Appellant,)	Appeal from
)	the Circuit Court
v.)	of Cook County
)	
BOARD OF EDUCATION OF THE CITY OF CHICAGO, MARY)	10 CH 26321
RICHARDSON LOWRY, NORMAN BOINS, TARIQ BUTT, PEGGY)	
DAVIS, ROXANNE WARD, CLARE MUÑANA, ALBERTO A.)	Honorable
CARRERO, JR., RON HUBERMAN, BRIAN CLAUSS, and ILLINOIS)	Mary Ann Mason,
STATE BOARD OF EDUCATION,)	Judge Presiding
)	
Defendant/Appellees)	

JUSTICE McBRIDE delivered the judgment of the court.
Justices J. Gordon and Howse concurred in the judgment.

O R D E R

HELD: The Board did not clearly err in finding that tenured third-grade teacher caused harm to students and staff by refusing to prepare lessons plans and grades, that further warnings to correct her behavior would have been futile, and that she was not entitled to a remediation plan.

¶ 1 Plaintiff, Carolyn Yvonne Gammon, a tenured teacher employed by Chicago Public School System at John Milton Gregory Math Science & Technology Academy, 3715 West Polk

Street, Chicago, was dismissed from her position by the defendant Board of Education of the City of Chicago (Board) on May 26, 2010. The primary grounds for her dismissal were a failure to submit lesson plans and grades for her third grade class during the 2008-09 school year. Gammon sought administrative review by the circuit court of Cook County, which affirmed the Board's decision. Gammon seeks further review.

¶ 2 Our first consideration, however, is the adequacy of Gammon's appellate brief. The Board points out that the statement of facts section of her brief is lengthy, but she failed to support her 28 pages of factual statements with any citation to the record on appeal. Rule 341(h)(6) requires appellees to provide a statement of facts "with appropriate reference to the pages of the record on appeal." Ill. S. Ct. R. 341(h)(6) (eff. July 1, 2008). Moreover, Gammon copied whole paragraphs from some of the administrative proceedings but made it appear the statements were made by the circuit court or are Gammon's own description, because she introduces them as findings of the court, does not use quotation marks or block indentation, and does not identify the underlying documents by name or record citation. Her presentation is confusing. Furthermore, it violates the admonishment of Rule 341(h)(7) that "[e]vidence shall not be copied at length, but reference shall be made to the pages of the record on appeal, *** where evidence may be found." Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008). The Board also points out that the argument section of Gammon's brief lacks adequate record citation. A failure to cite the associated pages of the record here is contrary to Rule 341(h)(7). Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008). A reviewing court is not expected to sift through a record in the hopes of finding support for an appellant's arguments and may conclude that any facts and arguments lacking

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citation have been waived. *Engle v. Foley & Lardner LLP*, 393 Ill. App. 3d 838, 854, 912 N.E. 2d 715, 729 (2009); *Canel and Hale, Ltd. v. Tobin*, 304 Ill. App.3d 906, 710 N.E.2d 861 (1999).

We also note that Gammon did not include an appendix in her brief, a copy of her notice of appeal, the final order from which she appeals, or a table of contents of the record. *See* Ill. S. Ct. R. 342 (eff. Jan 1, 2005).

¶ 3 A party should comply as nearly as possible to the rules for practicing before the appellate court. Compliance with the rules helps appellants present clear, orderly, effective arguments which help this court efficiently and fairly address the issues. It is within our authority to dismiss Gammon's appeal for noncompliance with the mandatory rules of appellate practice. *LaGrange Memorial Hospital v. St. Paul Insurance Co.*, 317 Ill. App. 3d 863, 876, 740 N.E.2d 21, 31-32 (2000). Gammon's attorney may not have understood the significance of the rules or the consequences of disregarding them when he prepared the brief, but he was advised of them by the Board's response brief. Nonetheless, counsel did not try to rectify the situation. Counsel did not seek leave to amend the opening brief. Counsel did not address the problem in a reply brief; and, in fact, Gammon's reply brief is overdue by five months and we elected to proceed with appellate review without benefit of the brief. The Board has provided most of the information missing from Gammon's opening brief and asks us to only strike Gammon's version of the facts and disregard her unsupported arguments. Because the Board has supplied the omissions, the record is barely three volumes, and the issues are straightforward, we grant the Board's request and will consider the merits of Gammon's appeal. We caution Gammon's attorney that this is not the usual outcome of deficient briefs.

¶ 4 Since the main issue on appeal is whether the findings of the Board are contrary to the manifest weight of the evidence adduced, we set out a detailed statement of the events leading to Gammon's termination. The secondary issue is whether Gammon was entitled by statute or collective bargaining agreement to be given a remediation plan to address her alleged insubordinate conduct.

¶ 5 Gammon has a bachelor's degree in early childhood education and is certified by the State of Illinois to teach preschool through third grade. She was employed at the same Chicago elementary school for her entire 19-year teaching career. We will refer to this school as Gregory Academy. Gammon was hired in 1990, taught second grade during her first year, third grade during the next school year, five years of preschool/prekindergarten, ten years of kindergarten, part of a year of third grade, took a leave of absence for a year, and returned as a third grade teacher for a few months before being fired. Donnell Carter was the school principal and had been in the position for eight years. Prior to that she was assistant principal at Gregory Academy for more than four years and, prior to that, a classroom teacher for more than five years. Principal Carter did not hire Gammon, but had known her for 19 years. The school's assistant principal was Daphne Gordon, who had been an educator for 20 years and known Gammon for about five years. Felicia Epting was Gregory Academy's literacy coach. Epting had known Gammon for about 12 years, including five years Epting was in the literacy position and seven years teaching fifth grade. All four women testified in these proceedings. Their testimony and the written record, which includes disciplinary records and other documents, indicate the following.

¶ 6 Gammon's behavior first became an issue at Gregory Academy during the 2006-07 school year when she was teaching third grade. Up until that year, Gammon had received excellent job evaluations. On January 23, 2007, at the 2:45 p.m. dismissal, when students, staff, parents, and visitors were present, Gammon was in the school lunchroom but could be heard as far away as the main office clearly and loudly saying the words "gangster" and "gangster thug." When Gammon was called to the office to explain her outburst, she said she was describing the way Principal Carter ran the school. During a disciplinary hearing later that month which included Gammon, a representative of her union, and Principal Carter, Gammon admitted to several instances of unprofessional behavior or misconduct. She was suspended for two days without pay. In mid-April 2007, she was given a "Cautionary Notice" for failing to complete student report cards and in general not following Principal Carter's directives. In May of the same school year Gammon was disciplined again, this time with a 10-day suspension without pay for telling a third grade boy to kick a third grade girl who had kicked him. Just before the suspension period started, Gammon received another cautionary notice on May 23, 2007, for failing to complete lessons plans and submit forms referring one of her students for special education services, even though the assistant principal paired Gammon with an experienced third grade teacher to help with the lesson planning and gave Gammon extra time to complete the referral forms. The assistant principal intended for the more experienced third grade teacher to "acclimate[]" Gammon to the curriculum for this grade level, but testified that, despite this support, Gammon did not write any plans and left it to the other teacher to do all the work. In the current proceedings, Gammon testified that she and other teacher took turns completing the

2006-07 lesson plans, however, at a disciplinary hearing convened in June 2007, which included Gammon, her union representative, and Principal Carter, Gammon admitted to blatantly refusing to comply with Principal Carter's direction to complete the forms and that the incomplete information she did submit was "very unprofessional & inadequate." Gammon was suspended for 15 days without pay. On September 26, 2007, the Board issued a "Warning Resolution" to Gammon regarding her conduct. The Board gave Gammon three directives for improvement: (1) to not provoke another person to engage in physical or verbal abuse, (2) to adhere to the disciplinary measures outlined in the student code of conduct, and (3) to be a model for her students.

¶ 7 Gammon took a leave of absence during the 2007-08 school year while assigned to teach the third grade. Her leave started in October 2007 and she did not return to work until the following school year on or about October 9, 2008.

¶ 8 Principal Carter annually prepared a handbook for the teaching staff in which she detailed the responsibilities, procedures to be followed, and items that were due. Gammon's general duties as a third grade teacher during the 2008-09 school year included providing instruction; completing lesson plans, assessments and other reports; and giving grades. The handbook specified that teachers were to submit lesson plans every other week. The handbook also indicated, "IMPACT will be utilized to process our report cards for grades K-8. This is a requirement for teachers to use to [electronically] record all grades. GRADES MUST BE ENTERED WEEKLY. REMEMBER: Parent[s] have access to review their child's grades." And, "A minimum of two or three entries per major subject per week is required." When

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Gammon returned from leave, Assistant Principal Gordon met individually with her for about 20 minutes to discuss what was expected of Gammon during the school year. Assistant Principal Gordon also provided written schedules for submitting lesson plans, student assessments, progress reports, and report cards. Gammon acknowledged in writing that she received the handbook and the forms on October 14, 2008. Principal Carter testified that after Gammon returned in early October 2008 from leave, she should have submitted her first biweekly lesson plans by October 24, 2008. The principal also stated that third grade was a "benchmark" grade and that students who did not meet educational criteria might have to repeat the grade.

¶ 9 Around this time period, Gammon was suspended for engaging in another incident of unprofessional and disruptive behavior at Gregory Academy. The record does not disclose the exact date in October 2008 that Gammon interrupted a meeting which the school's case manager was having with a parent, the child's classroom teacher, the school psychiatrist, and the school nurse. According to Principal Carter's testimony and the Board's appellate brief, in a very aggressive, verbally abusive, and threatening manner, Gammon insisted she should have been invited to the meeting regarding one of her former students. Gammon's third grade class overheard this confrontation regarding one of their peers, because Gammon had her students wait for her outside the case manager's door. The police were called. Gammon was suspended for 10 days without pay.

¶ 10 When Gammon began missing grading deadlines, the assistant principal spoke with her about the problem, at which point Gammon said she was a kindergarten teacher, not a third grade teacher, and the assistant principal replied that Gammon, nonetheless, needed to do her job.

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When Gammon did not write her lesson plans, Assistant Principal Gordon asked the experienced third-grade teacher who had previously coached Gammon on her lesson planning to try to give Gammon some more guidance. This too was ineffective, so Assistant Principal Gordon met with Gammon again. One of the things Gammon said was that she did not know how to maneuver in IMPACT and had no grades to enter yet after returning from leave. Assistant Principal Gordon then sat at Gammon's classroom computer keying in the relative weights to be given to various assignments and showing Gammon how to use the system.

¶ 11 Principal Carter noticed that when Gammon was escorting her class during a fire drill on November 3, 2008, one of the students was wearing chewing gum on her nose. Gammon said the girl was being disciplined for chewing the gum in the classroom. Gammon was disciplined for treating the girl in this manner. In the current proceedings, Principal Carter testified that having students wear chewing gum on their nose was contrary to the Student Code of Conduct which prohibited doing any physical or emotional harm to students. In the current proceedings, Gammon acknowledged receiving the "Warning Resolution" from the Board in 2007 for provoking one student to kick another and said she did not believe she violated the resolution in 2008 when she told her student to wear the gum; she was effectively enforcing her classroom prohibition on gum chewing. Never again did she tell a student to hit or kick in retaliation; she had not been verbally abusive with anyone else. Gammon also testified that she thought her classroom was "a zoo." Six of the students were repeating the third grade, two of them were on medication for hyperactivity, and all the students thought Gammon was a substitute and they could "act little bit wild."

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¶ 12 The whole teaching staff was reminded in writing to get their grades in by Friday, November 7, 2008, because report cards were being picked up the following Wednesday. This grading deadline also appeared in the handbook as "Friday November 7th 10:a.m. (Due on IMPACT Gradebook)." When Gammon missed the 10 a.m. deadline, Assistant Principal Gordon met with her again. Gammon once again said she did not understand how to maneuver within the electronic grading system and that she had no grades to enter. The assistant principal again showed Gammon how to use IMPACT and Gammon was allowed to devote "most" of the day to keying in grades, but still, entered nothing prior to the report card pick up on November 12, 2008. Gammon did not come to work that day. The principal had to ask the school's literacy coach to change her schedule so she could be there to meet parents and explain the delay. Gammon testified that she did not come to work on report-card pick-up day because she was "getting memos after memos and [she] wasn't seeming to do anything right so [she] was stressed," she "had doctor's statements," and she followed established procedure of calling the principal to tell her she was sick that day.

¶ 13 Gammon did not keep a paper grade book or have any work that had been graded, so the principal gathered a team of other teachers to look through the students' past test scores to assess their performance and assign grades on that basis.

¶ 14 On November 18, 2008, the assistant principal gave Gammon a memo outlining the situation, reminding her that grades were "part of [her] job responsibilities" and giving her a new deadline of 2:45 p.m. on November 19, 2008.

¶ 15 However, on November 24, 2008, Assistant Principal Carter gave Gammon another

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memo regarding her "[i]nsubordinate" failure to turn in grades.

¶ 16 On December 5, 2008, Assistant Principal Carter gave Gammon a memo regarding additional documents, such as lesson plans, that should have been submitted by December 3, 2008, and indicated Gammon's new deadline was December 5, 2008, at noon. A substitute teacher was scheduled to spend part of the day in Gammon's classroom so Gammon could devote her attention to completing the past due items, but rather than working on them, Gammon left the school at 10 a.m. without submitting a short day request form. The substitute teacher spent the whole day in Gammon's classroom instead of rotating to various teachers' classrooms as planned so those teachers could meet with the principal and observe their colleagues at work. Bringing in the substitute depleted the school's discretionary funds.

¶ 17 On December 9, 2008, the assistant principal gave Gammon another memo regarding the same past due documents. This memo concluded, "In order to avoid further disciplinary actions[,] you must comply immediately."

¶ 18 Nonetheless, the list of overdue items was repeated in a memo dated December 11, 2008. This memo again told Gammon that she must comply "immediately" in order to avoid disciplinary action. On December 11, 2008, Gammon also received a written job evaluation from Principal Carter. Principal Carter completed a "Form 5A: Classroom Teacher Visitation" indicating Gammon had no "strengths" and many "weaknesses" and that her overall evaluation was "unsatisfactory," the lowest on the evaluation scale. Principal Carter told Gammon that a substitute teacher was relieving her at 9:30 a.m. for two hours so Gammon could complete her overdue work and meet with either the principal or assistant principal at 10:45 a.m. regarding the

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situation. Progress reports were the most urgent item, as indicated by a sentence in large, bold font, "Remember progress reports are due TODAY!!!!." Principal Carter later wrote on her copy of the memo that Gammon did not write the progress reports and left the building at either 11:30 or 11:50 a.m.

¶ 19 The school went on holiday break between December 22, 2008, and Monday, January 5, 2009. The same list of past due documents appeared in a memo dated January 5, 2009, from Principal Carter to Gammon. This memo indicated, "Continued insubordination will result in disciplinary action," a substitute was arriving at 9:00 a.m. so Gammon could complete the work by 10:45 a.m. and then attend an 11:00 a.m. meeting with either the principal or the assistant principal. Gammon did not complete the items and instead left the school at 10 a.m. without completing a short day request form, informing the principal she was leaving, or giving a lesson plan to the substitute who wound up remaining with the class all day. Principal Carter had other plans for the substitute for the remainder of the day and was not able to use her as intended.

¶ 20 Gammon was out on suspension for part of January and when she returned on January 26, 2009, Principal Carter gave her a written directive to enter grades and progress reports by using the computer in the principal's office. Gammon came to the office, sat at the computer, folded her arms, and then pulled out a bible and started reading it. Principal Carter told Gammon she needed to use the time to at least complete the grades, but Gammon did not comply, so Principal Carter told her to leave for the day.

¶ 21 When Gammon returned to Gregory Academy the next morning, Principal Carter told Gammon she was on paid leave and would be hearing from the school system's law

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department and labor relations office.

¶ 22 Epting, the school's literacy coach, testified she would come to Gammon's classroom to "do some weekly stories together or some strategies." Epting observed that when she gave Gammon information or "strategies" to implement with her class, Gammon did not follow through with all of them, so Epting led the lessons and encouraged Gammon to the specific skills and strategies the children needed. Sometimes Gammon would say she was not a third grade teacher, start crying, retreat to the back of the classroom to calm herself, and Epting would take over the classroom. Gammon testified she cried because she was overwhelmed by the numerous memos or letters she was getting about her job performance. When asked whether she told Epting that she considered herself to be a kindergarten teacher instead of a third grade teacher, Gammon testified that she had probably said she had more experience in kindergarten and was not familiar with the third grade curriculum.

¶ 23 Gammon's last day at Gregory Academy was January 26, 2008, when she was told to go straight to the principal's office to complete her report cards. After she logged into IMPACT, she asked Assistant Principal Gordon what grades she was supposed enter into the system. Principal Carter told her to enter all her grades between October 10 and January 26th, and when Gammon replied that she "didn't have those with [her]," the principal told her to go home.

¶ 24 According to Gammon's testimony she used IMPACT during the 2006-07 school year only to record attendance, she was away on leave for about a year, and the first time she received any training on using IMPACT for grades was in November 2008, perhaps two or three days before report cards were due, when Assistant Principal Gordon sat down with her. The

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substitute teacher that covered her third grade class in September and October 2008 did not leave any grades for Gammon to consider. Gammon was told not to worry about the substitute's grading and to enter her own marks. Gammon also testified that she gave her grades to Principal Carter, but then admitted that she did not give any grades to the principal because "she didn't ask for any." Gammon said she did not understand what "day of entry" meant on the school calendar she received from the assistant principal, "was wondering what that meant," did not have an opportunity to ask the assistant principal any questions during their initial meeting in October, and did not try to ask her any questions later. Gammon admitted that she did not submit any of the lesson plans that were required. She believed that being put on a remediation plan would have helped her become a better third grade teacher.

¶ 25 The Board petitioned to dismiss Gammon for (1) violating the directives for improvement stated in the warning resolution and (2) being insubordinate and failing to submit grades and lesson plans. The hearing officer summarized that the warning resolution about telling one student to kick another indicated Gammon was deficient with respect to the "policy prohibitions against 'assaulting, threatening, intimidating or physical or verbal abuse.'" The hearing officer concluded, however, that the subsequent chewing gum "discipline" was not a repeat incidence of assault, threats, intimidation, or physical or verbal abuse and did not support a finding that the warning resolution was violated. This conclusion is not on appeal. The hearing officer further found that Gammon's conduct with respect to grades and lesson plans had been damaging to the students, faculty, or school, that Gammon's conduct was insubordinate, and that her conduct would not have been corrected by a warning and was, therefore, irremediable.

The hearing officer concluded the proven charges were sufficient reason for dismissing Gammon from her teaching position. Accordingly, on April 5, 2010, the hearing officer recommended that the Board dismiss her. The Board gave the parties an opportunity to submit exceptions and written arguments in support of or in opposition to the hearing officer's recommendation. At a regular board meeting on May 26, 2010, the Board adopted a resolution dismissing Gammon from employment, effective immediately. The circuit court affirmed the decision approximately a year later.

¶ 26 At Gammon's request, we review the Board's decision. When reviewing a decision of an administrative agency, this court will review the agency's factual findings to ascertain whether such findings are against the manifest weight of the evidence, review its decisions on questions of law *de novo*, and review its decisions on mixed questions of law and fact for clear error. *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 209-10 (2008); *Northern Illinois University v. Fair Employment Practices Comm'n*, 58 Il. App. 3d 992, 374 N.E.2d 748 (1978). The Illinois School Code provides that a tenured school teacher cannot be removed from employment without cause. 105 ILCS 5/34-85 (West 2010) (School Code). Cause which justifies dismissal is "some substantial shortcoming which renders continuance in employment detrimental to discipline and effectiveness of service; something which the law and sound public opinion recognize as a good reason for the teacher to no longer occupy *** [her] position." *Chicago Board of Education v. Payne*, 102 Ill. App. 3d 741, 747, 430 N.E.2d 310 (1981). The School Code distinguishes between conduct which is remediable and conduct which is not. If the conduct is remediable, then the teacher is entitled to a written warning to cease that

conduct. *Fadler v. Illinois State Board of Education*, 153 Ill. App. 3d 1024, 1028, 506 N.E.2d 640, 643 (1987); 105 ILCS 5/34-85 (West 2010). Without such warning, the board is deprived of jurisdiction to dismiss the teacher for the cause or causes given. *Payne*, 102 Ill. App. 3d at 749, 430 N.E.2d at 316. However, if the teacher's conduct is irremediable, no written warning is required before bringing dismissal proceedings. 105 ILCS 5/34-85 (West 2010); *Fadler*, 153 Ill. App. 3d at 1027, 506 N.E.2d at 643.

¶ 27 Determining whether a cause for dismissal is remediable is a question of fact that requires the exercise of judgment by the Board. *Fadler*, 153 Ill. App. 3d at 1027, 506 N.E.2d at 643. Therefore, as a discretionary decision of the Board, it will not be reversed by this court unless it is against the manifest weight of the evidence or it appears the Board acted in an arbitrary or capricious manner. *Fadler*, 153 Ill. App. 3d at 1027, 506 N.E.2d at 643. Neither party disputes that the issue before us concerns a mixed question of law and fact and that we review such decisions for clear error. *Lindsey v. Board of Education of City of Chicago*, 354 Ill. App. 3d 971, 819 N.E.2d 1161 (2004) (where the fact finder examines the legal effect of a given set of facts, it decides a mixed question of law and fact which is subject to an intermediate standard of review). Under the clearly erroneous standard of review, an agency's decision will be reversed only where the reviewing court, on the entire record, is "left with the definite and firm conviction that a mistake has been committed." *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 395 (2001) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

¶ 28 Gammon first contends her dismissal was clearly erroneous because her conduct did

not meet the *Gilliland* two-pronged test for irremediable conduct. *Gilliland v. Board of Education of Pleasant View Consolidated School District No. 622*, 67 Ill. 2d 143, 153, 365 N.E.2d 322, 326 (1977). She has waived any argument that the Board did not establish the first prong of the *Gilliland* test of irremediability by failing to argue that the students, faculty, or school were not harmed by her conduct. *Gilliland*, 67 Ill. 2d 143, 365 N.E.2d 322. Accordingly, we conclude Gammon's conduct was irremediable and we affirm the Board's determination. As a result, no written warning was required before initiating the dismissal action (*Fadler*, 153 Ill. App. 3d at 1028, 506 N.E.2d at 643), and the Board acted within its authority when it dismissed her from employment without such warning. For these reasons, we affirm the judgment of the circuit court upholding the decision of the Board.

¶ 29 Waiver aside, Gammon's argument regarding the second prong of the *Gilliland* test is unpersuasive. Gammon contends her conduct was not shown to be irremediable because she did not receive warnings over "a long length of time" without "correct[ing] her deficiencies" or making "any change on [her] part." However, on this second part of *Gilliland*, the Board adopted the hearing officer's findings:

"The evidence establishes that, despite repeatedly being told to submit the required lesson plans and report cards both verbally and in memo and a Cautionary Notice, Respondent [Gammon] chose not to follow the directives. The evidence shows that Respondent simply refused to do what was required through her studied inaction. In the instant matter, the evidence establishes that Respondent would not have been corrected by a Warning Resolution. She was

repeatedly told of the requirements and there is nothing to suggest that a Warning Resolution would have corrected her behavior. Rather, the evidence suggests that Respondent would have simply continued on her path of inaction and avoidance."

¶ 30 This finding is supported by the manifest weight of the evidence set out above. The record indicates that in April 2007, Gammon received a "Cautionary Notice" for failing to complete student grades and in general follow Principal Carter's directives. Also, in May 2007, she received a "Cautionary Notice" for failing to submit lesson plans and prepare documents to refer a student to special education services. It goes almost without saying that planning lessons and grading student performance are fundamental duties of the teaching profession. These are duties which would not have been surprising to a then 18-year veteran of the profession who spent her entire career at the same school. Gammon failed to perform these basic duties despite her experience and the fact that she was paired with a third grade teacher who assisted her with lesson planning and that she was given extra time to complete the special education referral. At the June 2007 disciplinary hearing with the principal and the union representative, Gammon admitted that she ignored the principal's direction to complete the forms. She received a 15-day suspension without pay. After being on leave between October 2007 and October 2008, Gammon was given the handbook detailing her obligations, including the schedule for regularly submitting lesson plans and grades. Gammon acknowledged in writing that she received the schedules. She admits that she did not submit a single lesson plan for the 2008-09 school year during the time she returned to work in October 2008 and being suspended with pay in late January 2009. Assistant Principal Gordon again paired Gammon with the more experienced

third grade teacher for coaching on lesson planning, but at this point, Gammon chose to leave it to the other teacher to do all the work. Gammon also ignored the deadline to submit grades before report cards were issued in November 2008. Weeks later, Gammon still had not completed her overdue report cards or enter any grades whatsoever for her students, and the principal gathered a team of teachers to approximate the appropriate grades by looking at previous test scores. In late November, Gammon was given two memos regarding her insubordinate failure to turn in the grades and was instructed to complete her "job responsibilities." In addition, the principal hired a substitute teacher to cover Gammon's class for a few hours on December 5, 2008, and December 11, 2008, but Gammon did not use the time to complete her work. Instead, she left the school early and did not give the substitute teacher any lesson plans. Gammon now suggests that her failure to assign grades was because she did not receive "proper assistance" with using the grading portion of the IMPACT system. This appears to be an entirely new argument made on appeal, because Gammon fails to cite any page of the record containing this argument. Arguments raised for the first time on appeal will not be considered. *Jackson v. Hooker*, 397 Ill. App. 3d 614, 617, 922 N.E.2d 1229, 1232 (2010). Furthermore, according to Assistant Principal Gordon's testimony, Gammon received at least two sessions of one-on-one training and Gammon did not testify otherwise. More importantly, there is no indication that Gammon ever assigned any grades during the 2008-09 school year. There is no indication she kept a written grade book or other notations, and on her last day at the school, Gammon sat at the principal's computer and asked for the grades that needed to be entered.

¶ 31 Similar conduct was found irretrievable in *Board of Education of the City of*

Chicago v. Harris, 218 Ill. App. 3d 1017, 578 N.E.2d 1244 (1991). The teacher in that case refused to accept a classroom assignment and instead chose to sign in each day and then work in one of the school's administrative offices. *Harris*, 218 Ill. App. 3d 1017, 578 N.E.2d 1244. She persisted in this routine for several months despite many oral and written memos from the school principal and school district superintendent that referred to the possibility of losing her position if she did not perform her assigned classroom duties. *Harris*, 218 Ill. App. 3d at 1028, 578 N.E.2d at 1252. In late November of that school year, the board initiated formal dismissal proceedings. *Harris*, 218 Ill. App. 3d at 1021, 578 N.E.2d at 1247. She later argued that she was entitled to official warning from the school board to correct her conduct. *Harris*, 218 Ill. App. 3d at 1028, 578 N.E.2d at 1252. The court disagreed, stating that "the history of this cause amply shows that, even if Harris received an official warning from the board rather than warnings she did receive, she would have continued her insubordinate and unbecoming conduct." *Harris*, 218 Ill. App. 3d at 1028, 578 N.E.2d at 1252. Furthermore, "From her reaction to those warnings, we think it is clear that she would have behaved the same way even if they had come on different letterhead." *Harris*, 218 Ill. App. 3d at 1028, 578 N.E.2d at 1252. The court concluded, "while the board's failure to give a written warning in the board's name required it to prove irremediability, the nonboard warnings Harris received and defied are persuasive evidence of irremediability." The court pointed out that this was not a case in which the teacher was allowed to languish in her misbehavior without any warnings "until suddenly irremediability was alleged to have resulted from the passage of time." *Harris*, 218 Ill. App. 3d at 1029, 578 N.E.2d at 1253. "Rather, this is a case of patent irremediability resulting from Harris's obstinate defiance of the repeated

warnings that school officials gave her, as well as from the passage of time. *Harris*, 218 Ill. App. 3d at 1029, 578 N.E.2d at 1253.

¶ 32 Like the teacher in *Harris* (*Harris*, 218 Ill. App. 3d 1017, 578 N.E.2d 1244), Gammon came to work but obstinately defied repeated directions and warnings about deadlines to submit grades and lesson plans. She was coached by a teacher who was experienced in writing third grade lesson plans, she was given one-on-one training on how to use the online grading system, and a substitute teacher covered her class so Gammon could devote the time to catching up on her responsibilities. She was also suspended from work. None of the repeated directives, the work suspensions, or the extra help had any effect on Gammon's conduct. From her reaction to the admonishments, suspensions, and accommodations, it is clear that she would have continued in this behavior. As the hearing officer put it, Gammon "would have simply continued on her path of inaction and avoidance." The Board's finding that Gammon's misconduct was irreparable is consistent with the manifest weight of the evidence. Gammon failed to meet either prong of the *Gilliland* test for remediability. *Gilliland*, 67 Ill. 2d 143, 365 N.E.2d 322.

¶ 33 Finally, Gammon contends she was entitled to a remediation plan due to section 24A-5 of the School Code or terms in the collective bargaining agreement between the Board and the Chicago Teachers Union. 105 ILCS 24A-5 (West 2010). By its own terms, however, section 24A-5 does not preclude dismissing a teacher for deficiencies which are deemed irreparable. 105 ILCS 24A-5 (West 2010). As for the argument regarding the collective bargaining agreement, the Board states Gammon failed to make this an issue during the administrative proceedings, and, as we noted above Gammon's brief lacks adequate record citation. The

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argument has been waived. *Jackson*, 397 Ill. App. 3d at 617, 922 N.E.2d at 1232.

¶ 34 We are not led to conclude that the Board erred. For the reasons stated above, we affirm the judgment of the circuit court sustaining the decision of the Board.

¶ 35 Affirmed.