

BRAIN TEASER



The correct answer is C.

Explanation:

Yes, Blanche can terminate Clyde for this misconduct. She just needs to handle the termination carefully because Clyde is a member of a protected class and he could file a claim against the company alleging that his termination was retaliatory.

Many state and federal laws prohibit employers from discriminating against a person in a protected class. However, these protections do not extend to an employee’s own “bad behavior.” Instead, these laws require employers to treat employees in protected classes the same as other employees who are not in protected classes. There is no requirement to extend greater protections to an employee because he/she is in a protected class.

Employers should have strongly written anti-discrimination/harassment/retaliation policies. These policies should clearly state that all complaints regarding violations of these policies will be investigated. In addition, the consequences for violating these policies should be included in the policies.

All complaints regarding workplace discrimination, harassment, retaliation should be thoroughly investigated by an impartial investigator, which may require the company to hire an independent third party to conduct the investigation. The company’s investigation should be documented and records relating to the investigation should be kept in an investigation file maintained by the company.

All violations of these policies and disciplinary action taken should be clearly documented so that the company can insure that all violations are treated in a consistent manner and without regard to any protected class. Violations of these policies should not be tolerated under any circumstance.

Prior to terminating an employee for this type of policy violation, employers should review our Red Flags document (available on our website) and determine whether this termination raises any red flags. In instances where there are possible red flags, employers should consult with an HR Professional or qualified employment law attorney to review the facts of the situation and to verify that the desired adverse action is being taken for policy violations and not as a form of retaliation.

Log in to the website then click on **HR Tasks** —> Click on **Discipline an Employee** —> scroll down to **Guidance**, click on **Red Flags when Taking Adverse Action**.