

**Rule 1.3 [3-110(B)] Diligence**

- (a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to act with reasonable\* diligence in representing a client.
- (b) For purposes of this Rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.

**Comment**

[1] This Rule addresses only a lawyer’s responsibility for his or her own professional diligence. See Rules 5.1 and 5.3 with respect to a lawyer’s disciplinary responsibility for supervising subordinate lawyers and nonlawyers.

[2] See Rule 1.1 with respect to a lawyer’s duty to perform legal services with competence.

**Rule 1.3 [3-110(B)] Diligence**

- (a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to act with reasonable\* diligence in representing a client.
- (b) For purposes of this Rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or ~~without just cause,~~<sup>1</sup> unduly delay a legal matter entrusted to the lawyer.

**Comment**

[1] This Rule addresses only a lawyer’s responsibility for his or her own professional diligence. See Rules 5.1 and 5.3 with respect to a lawyer’s disciplinary responsibility for supervising subordinate lawyers and nonlawyers.

[2] See Rule 1.1 with respect to a lawyer’s duty to perform legal services with competence.

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<sup>1</sup> [Drafting team consensus to make change requested by COPRAC to avoid suggestion that paragraph \(b\) provides that there could be “just cause” to “unduly delay” a legal matter.](#)

**Proposed Rule 1.3 Diligence  
Synopsis of Public Comments**

**TOTAL = 8**  
**A = 4**  
**D = 1**  
**M = 3**  
**NI = 0**

No.	Commenter/Signatory	Comment on Behalf of Group?	A/D/M/NI <sup>1</sup>	Rule Section or Cmt.	Comment	RRC Response
2016-32c	Law Professors (Zitrin) (07-25-16)	Yes	A	1.3	<p>We are gratified to see the inclusion of a separate rule on diligence along with a definition of diligence.</p> <p>Moreover, the commission has corrected the overly narrow standard required for a violation MR 1.3 by adding the phrase “gross negligence” to the rule itself.</p>	No response required.
X-2016-43f	Committee on Professional Responsibility and Conduct (COPRAC) (Baldwin) (08-12-16)	Yes	M	(b)	<p>COPRAC supports the concept of the Rule and its comments, but has suggested revisions in syntax for subsection (b). As to proposed Rule 1.3(b), it now provides:</p> <p>For purposes of this Rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, <b>or without just cause, unduly delay a legal matter entrusted to the lawyer.</b> (<i>Emphasis added</i>).</p> <p>COPRAC worries that the provision, as drafted, could be read as providing that there could be “just cause” to “unduly delay”</p>	The Commission agrees with the commenter’s recommendation and has made the suggested change.

<sup>1</sup> A = AGREE with proposed Rule    D = DISAGREE with proposed Rule    M = AGREE ONLY IF MODIFIED    NI = NOT INDICATED

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					<p>a legal matter. We believe that what we understand the intent of subsection (b) to be could be better expressed by a revision of the language as set forth below.</p> <p>COPRAC's Suggested Revised Rule 1.3:</p> <p>(b) For purposes of this Rule, "reasonable diligence" shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.</p>	
2016-52c	Law Professors (Zitrin) (08-24-16)	Yes	A	1.3	<p>We are gratified to see the inclusion of a separate rule on diligence along with a definition of diligence.</p> <p>Moreover, the commission has corrected the overly narrow standard required for a violation MR 1.3 by adding the phrase "gross negligence" to the rule itself.</p>	No response required.
X-2016-66b	San Diego County Bar Association (SDCBA) (Riley) (09-15-16)	Yes	A		<p>We commend and support the Commission's choice of a separate rule that establishes an ethical duty of diligence, removing it from the Comment in the current competence rule, Rule 3-110, and also providing a definition of "reasonable</p>	No response required.

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					<p>diligence” for purposes of discipline. While the concepts of competence and diligence are linked, we believe they are sufficiently different, particularly from a client’s perspective, that they warrant separate treatment. A lawyer may be technically competent—i.e., have the requisite skill—but still not pay adequate attention to, or even grossly neglect obligations to, a client. This addition of proposed Rule 1.3 makes clear that a lawyer has the ethical obligation both to be competent and to act with commitment and dedication to the interests of the client. We also support the inclusion of “gross negligence” into the scope of both the competence and the diligence rule.</p>	
X-2016-75b	Kerins, Steve (09-25-16)	No	M		<p>In my opinion, gross negligence should not be a basis for attorney discipline; the existing bases of intentional, reckless, and repeated conduct are more than adequate for public protection. Please note that this comment is submitted solely in my personal capacity, and not in any representative capacity.</p>	<p>Rules 1.1 and 1.3 have been drafted to more clearly identify the fact that “gross negligence” is an existing basis for discipline.</p>

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X-2016-68c	Law Professors (Zitrin) (09-21-16)	Yes	A		See X-2016-52c Law Professors (Zitrin) dated July 25, 2016 for comment synopsis. The comments are identical and the only difference is the signatories.	See X-2016-52c for Commission's response to the Law Professors' comments
X-2016-76c	Los Angeles County Bar Association (LACBA) - Professional Responsibility and Ethics Committee of the Los Angeles County Bar Association (PREC) (Schmid) (09-24-16)	Yes	D		<p>1. As Proposed Rule 1.1 defines competence to include diligence, PREC believes Proposed Rule 1.3 [Diligence] is unnecessary and inappropriate.</p> <p>2. Unlike Proposed Rule 1.1, a violation of Proposed Rule 1.3 does not necessarily implicate the duty of loyalty or require harm or the potential for harm to the client. PREC recommends that the definition of "reasonable diligence" in subpart (b) of Proposed Rule 1.3 be moved to Proposed Rule 1.1, and the term "diligence" in Proposed Rule 1.1 be modified to be "reasonable diligence."</p>	<p>1. Rule 1.1 does not define competence to include diligence.</p> <p>2. The Commission has not made the suggested change. The decision to separate diligence and competence and supervision into separate rules to enhance compliance and conform to the national standard remains valid. Most of the comments the Commission has received favor treating these duties in separate rules. Separating competence and diligence is also consistent with other rules. See, e.g., proposed Rule 1.7(b)(1).</p>
X-2016-104f	Office of Chief Trial Counsel (OCTC) (Dresser) (9-27-2016)	Y	M		1. As discussed in OCTC's comment to proposed rule 1.1, OCTC is concerned with segregating and separating diligence, competence, and supervision into separate rules.	1. The decision to separate diligence, competence and supervision into separate rules to enhance compliance and conform to the national standard remains valid and OCTC should not have any greater charging difficulties

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					<p>2. OCTC is concerned with Comments 1 and 2, because, as discussed, supervision of an attorney’s employees, office, and case is part of lawyer competence. Further, these Comments are unnecessary, even if those concepts are separated, because each rule explains what it covers.</p>	<p>than bar regulators in other jurisdictions. Most of the comments we have received favor treating these duties in separate rules. Separating competence and diligence is also consistent with other rules. See, e.g., proposed Rule 1.7(b)(1).</p> <p>2. The Commission believes it is important to retain Comments [1] and [2], which provide cross-references to the supervision rules [5.1 to 5.3] and the competence rule [1.3], respectively. It is important to provide those references because those concepts had both previously been found within the competence rule.</p>

