



## **Frequently Asked Questions About Annulments (Declarations of Nullity)**

### **What is a declaration of nullity?**

A declaration of nullity (annulment) is a statement by the Tribunal that, at the time a man and a woman exchanged marital consent, a valid bond was not formed. This is not a moral judgment on the parties themselves, nor is it a matter of laying blame on one of the parties for the failure of the marriage. Rather, it is the conclusion of the Tribunal, after an investigation is made, that the marriage is not binding.

### **Who is required to petition for a declaration of nullity?**

The Catholic Church teaches that, according to God's plan for His people, it is the consent of a man and a woman which creates the marital bond. Therefore, after a divorce, if a person wishes to contract marriage in the Catholic Church, it is the responsibility of the Tribunal to uphold the validity of the marriage or to conclude that the marriage is not binding. This is true not only for Catholic marriages, but also for the marriages of non-Catholics, whether baptized or unbaptized, since the permanence of marriage is of Divine Law.

### **Who can petition for a declaration of nullity?**

Either party of the marriage can petition for a declaration of nullity. However, prior to the Tribunal's consideration of the petition, it is required that the parties obtain a divorce decree. There must be no possibility of reconciliation.

### **What factors are considered in the investigation of a marriage?**

In considering the validity or invalidity of a marriage, the Tribunal looks at five factors: the form of the marriage; the freedom of the parties to choose marriage; their capacity to fulfill the obligations of married life; their knowledge of each other and of the responsibilities of marriage; and their intentions with regard to the essential elements of marriage.

### **What is meant by the form of marriage?**

The form of marriage refers to the requirements of the celebration of marriage in the Catholic Church. The ceremony must include the exchange of consent in the presence of a Catholic priest or deacon who has the necessary delegation, and in the presence of two witnesses. (It is possible for a Catholic, who is marrying a non-Catholic, to obtain permission to be married in a non-Catholic church or other suitable location, depending on the circumstances of the marriage.) The marriage of a person of the Orthodox Church must be in their church. For people who are not Catholic, whether baptized or not, the Catholic Church does not require them to be married in a church and such marriages are presumed valid.

### **How is a marriage declared invalid due to a lack of canonical form?**

Marriages of Catholics or of the Orthodox which were celebrated without the proper form will be declared invalid through an administrative process. This is normally requested when one of the parties wishes to enter into marriage in the Church. The form entitled "Petition for Declaration of Nullity of Marriage Contracted Outside the Church" is to be completed and submitted to the Tribunal, along with copies of the Catholic/Orthodox baptismal record, marriage license, and divorce decree, as well as statements from two witnesses asserting that the marriage was never celebrated at a later date in the Church. (These documents can be submitted along with the regular prenuptial file.)

**What is the process to investigate the validity of a marriage contracted in the Catholic Church or, in the case of non-Catholics, in any other location?**

- a. A "Matrimonial Fact Sheet" (introductory form) is normally obtained at a local parish. This form asks for basic information as to the names of the people who contracted marriage, addresses, religion, and other facts. It is advisable to complete the form with the assistance of a "Field Advocate," who is a priest, deacon, or pastoral minister.
- b. Upon receipt of the "Matrimonial Fact Sheet," the Tribunal will determine if it has jurisdiction, which means that the marriage was celebrated in the Diocese of Joliet or at least one of the parties of the marriage resides in the Diocese of Joliet.
- c. A questionnaire will then be sent to the Petitioner which asks for detailed information about the background and personality of the parties and a description of the relationship between the parties. Before returning the answers to the questionnaire to the Tribunal, it should be reviewed by the Field Advocate, who may offer suggestions as to allow for more complete answers. If the information which is presented is lacking in substance, a supplemental questionnaire may possibly be required to be completed.
- d. The Petitioner is then sent a letter acknowledging receipt of the questionnaire and asking that a "mandate" be signed so as to appoint an Advocate in the Tribunal to oversee the processing of the case.
- e. The grounds upon which the validity of the marriage will be considered are then formulated and communicated to both the Petitioner and the Respondent. It is thus necessary to have the complete address of the Respondent, since he/she has the right to participate in the process. It is not required that the Respondent reply in any manner to the Tribunal for the process to continue.
- f. Witnesses are to be named by the Petitioner, normally from "both sides of the family" and they will be contacted and asked to answer a brief questionnaire with regard to their understanding of the relationship between the parties. A minimum of two witnesses providing answers of substance are necessary. Children who were born of the marriage are not asked to be witnesses.
- g. In some cases, it will be necessary for the testimony to be reviewed by a psychologist who will offer an evaluation to the Tribunal. The Petitioner is asked to meet with the psychologist to discuss the case. It is never a matter of the Petitioner being tested.
- h. The case is reviewed by the Defender of the Bond, who will offer any objections to a declaration of nullity, but only if such objections are warranted.
- i. The case is presented to the Presiding Judge who will decide if the marriage is to be considered as still binding (valid) or not binding (invalid).

j. Both parties are informed of the decision and have 15 days to lodge an appeal in writing, if they so choose.

k. If there is no appeal, and the decision was affirmative, that is, it has been ruled that the marriage is not binding, a decree will be issued to both parties which serves as proof that a person is free to marry in the Catholic Church. It is possible that accompanying the decree there will be a "prohibition" against a future marriage until such time as a person is evaluated and it is determined that he/she is ready for a new marriage. A prohibition is imposed on a person who is experiencing some type of difficulty which is likely to be detrimental to marital life.

### **What are the possible grounds used in a case?**

a. Lack of due discretion: It is necessary for a person to have the proper understanding of the rights and obligations of marriage in relation to both parties. It is also necessary that a person be able to freely choose to enter into marriage, rather than to be pressured because of extenuating circumstances, such as, a premarital pregnancy.

b. Lack of due competence: Each person must be capable of accepting and fulfilling the obligations of married life.

c. Simulation of intentions regarding marriage: At the time of the wedding, both parties must intend to be faithful, to be married for life, and to be open to the conception of children.

### **Is the testimony kept confidential?**

All of the testimony which is collected in the case is kept strictly confidential. Each party has the right to read the testimony of the other. The testimony is never sent to the party, but is reviewed only at the Joliet Tribunal or at the Tribunal of the place where a party lives.

### **What effect does an affirmative decision have on children born of the marriage?**

Children are always legitimate, even if a marriage is declared to be not binding. The decision of the Tribunal has no civil effects in regard to the responsibility which is to be maintained regarding alimony, child support payments and visitation rights.

### **What is a documentary case?**

There are impediments to the valid celebration of a marriage. Such impediments most commonly relate to, but are not limited to, a person being held to the bond of a prior marriage and the failure of a dispensation having been granted for a Catholic to contract marriage with an unbaptized person. Such cases require only documentation to prove the invalidity of the marriage.

### **Does the Tribunal charge any fees?**

The Tribunal does not specify the payment of any fees. Each formal case averages \$1500 to process and the Petitioner is asked to offer a donation to assist with the expenses of the Tribunal. The average cost to process a documentary case is \$125 and the Petitioner is asked to offer a donation to the Tribunal.

(If a case is required to be reviewed by a psychologist, the fee is \$300 which is paid entirely to the psychologist.)

### **How long does the formal process take to complete?**

Given the fact that there are variables in each case, it is not possible to estimate when a formal case will conclude. The Tribunal seeks to process each case in a timely manner.

**What is the “shorter” process as promulgated by Pope Francis?**

One of the parties of a marriage, with the consent of the other party, initiates the case. It is necessary that the cause of the breakdown of the marriage be quickly apparent in light of the information which is presented. Personal interviews with the parties and at least one witness is required. If the information readily leads to a conclusion that the marriage can be declared not binding, it is given to the Diocesan Bishop to render a decision. If the information appears to be insufficient to conclude that the marriage is not binding, it is remanded to the ordinary formal process.

**When can a date be set for a wedding in the Catholic Church?**

Each parish is instructed to not set a date for a wedding until an affirmative decision has been rendered in a case. It is not possible to determine when a decision will be made and an appeal of a decision is always possible.