



# Diocese of Saint Petersburg Office of the Tribunal Frequently Asked Questions

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## 1. What is marriage?

The Catholic Church teaches that marriage is, by God's plan, a covenant between a man and a woman, which establishes an exclusive and lifelong partnership for the giving and receiving of love and the procreation and nurturing of children.

A marriage comes into being when the bride and the groom exchange their consent to marriage through the wedding vows.

For those who have been baptized, a valid marriage is also considered to be a sacrament. Although not every marriage is a sacrament, every marriage, including a marriage between two non-Catholics, whether baptized or not, is presumed to be a valid and binding union.

### **The Catholic Church considers a marriage to be valid when:**

- It is celebrated in a ceremony that is legally acceptable according to Catholic Church law;
- Both parties are free to marry each other;
- Each party intends, on the day of the wedding, to accept and fulfill the rights and obligations of marriage;
- Each party has the physical and psychological ability to live out God's plan for married life as taught by the Church.

If sufficient proof is brought forward to show that one or more of these requirements was lacking from the beginning of the marriage, there is a possibility that the Church will declare the marriage invalid.

## 2. What is an annulment?

An annulment is a declaration by a competent Tribunal of the Church that despite the good intentions of both parties, on the day of the wedding, when the couple exchanged their vows, one or more of the elements which the Church considers essential for a valid marriage was lacking and therefore the "marriage" never validly (i.e. canonically) existed.

### **What a declaration of nullity is not—**

**A declaration of nullity is not** a moral judgment of the parties themselves. It is not a continuation of the divorce proceedings, nor should it be seen as an approval or condemnation of the marital behavior of one or both parties. The tribunal seeks to determine whether or not the elements necessary for a valid marriage were present on the day of the wedding. A declaration of nullity is a factual statement that according to Catholic Church law, one or more of the elements which the Church considers to be essential for a valid marriage was lacking at the time the couple exchanged their wedding vows. Through-out the nullity process, it is the bond of marriage that is being judged, not the parties to the marriage.



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**A declaration of nullity is not** a statement of the Catholic Church that the previous relationship between the spouses never existed. They were married according to the laws of the state, they shared a life with each other, and perhaps had children together. A declaration of nullity cannot change these facts.

**A declaration of nullity has absolutely no effect upon the legitimacy of any children born of the marriage.** It does not change the legal stipulations of the divorce, such as child support and visitation. A declaration of nullity does not relieve one of his or her moral obligations as a parent. Both civil law and Church law recognize the important responsibility that one assumes in becoming a parent and expects that parental obligations be fulfilled.

### 3. **Is there a difference between a divorce and an annulment?**

Definitely. A civil divorce is a legal action whereby, the division of property and custody of children having been settled, a civil dissolution of a marriage is granted, and husband and wife are declared free by the same civil authority to enter a new marriage with a different partner. Such a civil procedure does not question the validity of a marriage. An annulment procedure, on the other hand, questions the validity of the initial consent of that marriage. If satisfied that in Canon Law and through factual evidence, what was thought to be in all its external appearances a canonically valid marriage, was not, then the Church's Tribunal declares it null and void. This is the annulment.

### 4. **If I have a legal divorce do I still have to apply for an annulment?**

Yes. In the mind of the Church, you are still considered to be married to your first spouse. The Church does not accept the civil courts as capable of dissolving the bond of marriage. The Church does not impose penalties on those who seek a civil divorce. However, before you could marry in the Catholic Church after obtaining a legal divorce, you would have to have been successful in obtaining an annulment, which declares that your previous union was not a valid, canonical marriage.

### 5. **How long does the whole process take?**

The tribunal is dedicated to processing cases as quickly as possible. However, it is impossible to accurately predict the exact length of time needed to process a case because each one is unique and may require a time line which is different. Much depends on the cooperation of the ex-spouse, length of the marriage, availability of witnesses, complexity of the grounds, the need for the intervention of experts, etc.

Church law requires that cases be processed according to the order in which they are received. Current experience indicates that when the required information is readily available, ten to twelve months from the time the case is accepted is the average length of time required to process a case. This is simply an average, it is not a guarantee. Some cases require more time to be processed such as long term marriages.



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### **6. What is the financial cost for the annulment procedure?**

Effective February 1, 2015, the fees for all Tribunal services were eliminated by direction of Bishop Robert N. Lynch. This does not apply to cases started prior to this date. However, any remaining fees due on cases in process will be disregarded.

### **7. Are Catholic marriages the only ones which need to be annulled before a second marriage can take place in the Catholic Church?**

An erroneous impression, very common among Catholics, is that the Church recognizes as valid only the marriages of Catholics. Anyone (Catholic, non-Catholic, baptized, or non-baptized) who is divorced, and whose former spouse is still living, may require a declaration of nullity before he or she will be permitted to marry in the Catholic Church. The truth is that the Catholic Church recognizes as valid not only the marriages of Catholics celebrated in the Catholic Church, but also those of baptized non-Catholics as well as those of the non-baptized. Marriages between baptized people (Catholics or non-Catholics), if valid, are Sacraments; those between non-baptized are not Sacraments but “natural bonds” because they are contracted according to the natural law, rather than by the sacramental bond that comes through Baptism. Therefore, if a Catholic wishes to marry either a divorced, baptized, non-catholic, or a divorced, non-baptized person, then, in either case of these non-catholic marriages, an annulment would have had to be obtained through a Catholic Church Tribunal before any second marriage can take place in the Catholic Church. However, where a marriage was entered into in the first place with a non-baptized person, the Tribunal might examine the possibility of using a procedure called the Privilege of the Faith. This is not an annulment.

Those who are currently participating in the Rite of Christian Initiation of Adults (RCIA) and are divorced and re-married, may also require a declaration of nullity in order that their current marriage may be recognized by the Catholic Church.

It is a fundamental teaching of the Catholic Church that any marriage which contains those elements that the Church considers to be essential for a valid union cannot be ended by anything other than death. When those necessary elements are present, not even divorce can end the unbreakable promise that the spouses have made to each other through their wedding vows.

Because no person can have more than one valid marriage at a time, before anyone is permitted to marry in the Catholic Church, his or her freedom to marry must be established. Church law requires that any prior marriage(s) be investigated to determine whether or not the essential elements required for a valid marriage were present at the time that the previous marriage occurred.



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### 8. **If I choose not to have my first marriage examined for possible causes of nullity in a Catholic Church Tribunal, does this affect my request for remarriage in the Catholic Church?**

Yes, in that case you will not be able to marry in the Catholic Church. It is important to realize that even if you did approach a Tribunal requesting the canonical examination of your marriage, there is no certainty of an annulment unless the Tribunal has definitely found the marriage null and void and the Appeal Tribunal has upheld this first Tribunal's decision. If you choose to be married outside the Church, you are then considered to be in an "irregular" (i.e. non-canonical) marriage, which prevents full participation in the Sacramental, as well as other aspects of the Church's life.

### 9. **Am I then excommunicated? Is a divorced Catholic excommunicated from the Church?**

**Definitely NO.** The Church does not teach that divorce is cause for excommunication. Being divorced does not affect one's status in the Church. You are still warmly invited to attend Mass and to participate in the life of the Church to the extent possible. Catholics who happen to be divorced remain full members of the Church with the same rights and obligations as any other Catholic. The Church encourages those who are divorced to continue the practice of their Faith. However, there are serious limitations to this participation, especially in the areas of reception of the Sacraments, liturgical and catechetical ministry, but there are ways of taking part in the Church's life and you would be encouraged to do this.

### 10. **Can divorced Catholics receive the sacraments?**

Catholics who are divorced may continue to receive the Sacraments of the Church so long as they have not entered another marriage before receiving a declaration of nullity for the previous marriage(s).

Catholics who are divorced and have remarried without a declaration of nullity are not free to receive the Sacraments until the current marriage can be validated in the Church. However, Catholics in this situation are not excommunicated, and are encouraged to attend Mass and practice the other aspects of their Faith.

### 11. **If a Catholic marries a divorced non-Catholic, may the Catholic party continue to receive the Sacraments?**

Should a Catholic choose to marry one who is not free to marry according to Church law, the Catholic may not continue to receive the Sacraments. In order for the Catholic to return to the Sacraments, it will be necessary for the non-Catholic party to receive a declaration of nullity regarding his or her previous marriage(s).

A Catholic in this situation is not excommunicated, and is encouraged to attend Mass and practice other aspects of the Catholic Faith.



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### **12. When is one permitted to remarry in the Catholic Church?**

Arrangements for a future marriage in the Catholic Church may not be made until the nullity process has been completed. If a declaration of nullity is granted, and there are no restrictions attached, preparation for marriage in the Catholic Church may begin at the local parish.

Please note that the tribunal will not advance or expedite any case due to wedding plans being made before a final decision of the tribunal has been reached.

### **13. Does the Church consider divorce to be a sin?**

No. The Church says that divorce in itself is neither right nor wrong. In fact, the Church accepts that in many cases it is necessary to use the civil divorce procedure to legally protect oneself and to obtain a fair and equitable solution on such matters as child custody, maintenance and property division. A civil divorce however, from the Church's perspective, does not provide freedom to remarry outside of the Church.

### **14. Does the Church encourage divorced Catholics to seek an annulment?**

Yes, even though the Church retains its basic stance on the indissolubility of marriage, it has given every sign of being willing to question and examine the validity of a marriage more readily today. The Church invites you to seriously consider approaching the Tribunal to seek an annulment if your case entitles you to it.

### **15. How does one begin the nullity process?**

Either spouse may initiate the nullity process by first contacting a local Catholic priest, deacon, or designated lay person, who will provide a petition for a declaration of nullity and a brief questionnaire regarding the former marriage. A separate petition and questionnaire must be completed for each prior marriage.

A copy of the marriage certificate, final divorce decree, and a baptismal certificate for any Catholic party will also be required.

After receiving the request for a declaration of nullity, it will be reviewed by members of the tribunal staff. If there is no indication of the possibility of invalidity, the petitioner will be so advised. If the petition for a declaration of nullity indicates the possibility that the marriage may have been invalid, the petitioner will be advised that the case has been accepted for investigation.

### **16. What is the function of the Tribunal in marriage cases?**

After the preliminary investigation, it is the task of the Tribunal to determine whether or not there exist sufficient invalidating grounds, both in ecclesiastical law and in fact, that render the given marital consent defective. When we say "grounds we mean the reason(s) used in law to question the validity of the initial consent in a particular marriage. The purpose of the Tribunal study of the



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antecedent, concomitant and subsequent facts in a marriage is to provide evidence which verifies, or not, these invalidating grounds. The Church's declaration of nullity of a particular marriage depends on whether these invalidating grounds have been sufficiently established or not.

### 17. **Who are the people who staff a Tribunal?**

There are priests, religious and lay people who are specifically trained for this particular work. They are people who are very aware of the pastoral significance of the service they offer and are always under oath of professional secrecy.

### 18. **If I do not think I have a strong case or if the majority of the fault of the marriage breakdown was mine, should I still request the Tribunal to examine my first marriage?**

It is difficult for an individual to decide on his/her own whether there are grounds for annulment. That is where the expertise of the Tribunal staff is very valuable. It is wise to let them help you with your petition. It is not the purpose of the Tribunal process to place blame on one spouse or the other. It is their mandate to receive all petitions and thoroughly search for the "grounds" for an annulment, if these exist. If such grounds are found, the Tribunal would proceed to pass the petition through the process to a decision.

### 19. **Why must the former spouse be contacted?**

Catholic Church law requires that both parties to the marriage be afforded the same rights throughout the process. The former spouse has the right to know that the tribunal has received a petition for a declaration of nullity, the grounds upon which the petition is based, and the names of the witnesses that have been proposed. Church law requires that the former spouse be given the opportunity to fully participate in the nullity process. He or she has the right to provide testimony in the case and to name other witnesses that may be knowledgeable about the marriage.

When the petitioner is notified that the petition has been accepted for investigation, the former spouse must also be notified that the process has been initiated. Thus, the tribunal must have an accurate and current address for both parties before it can begin to process a petition for a declaration of nullity.

While the tribunal is obligated to inform the former spouse of his or her rights in the nullity process, whether or not the former spouse wishes to exercise those rights is a personal choice. If the former spouse has not responded within thirty days of being notified by the tribunal, the case will proceed.

Please note that it is not necessary for the petitioner to contact the former spouse with the exception of marriages lasting 15 years or more. In those marriages, the tribunal requests that the former spouse be notified of the process by the petitioner and confirmation of this given to the tribunal. The tribunal will make the formal contact with both parties throughout the nullity process.



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### 20. **Why are witnesses required?**

Church law requires that the facts upon which the petition for a declaration of nullity is based be corroborated by knowledgeable witnesses. Witness testimony, as well as the testimony of both spouses, provides the tribunal with a more complete understanding of the spouses, the marriage, and the problems in the relationship.

Knowledgeable witnesses are people who knew the spouses well. They are knowledgeable about the backgrounds of the couple and how the relationship began and developed. Good witnesses are people who knew the couple during the courtship and the early years of the marriage.

### 21. **Is the information submitted to the tribunal confidential?**

The information gathered during the marriage nullity process is never made available or released to any person except as required by Catholic Church law. The tribunal staff will not discuss a marriage nullity case with any persons other than the spouses and the appropriate tribunal representatives.

### 22. **My first marriage lasted for many years and we had several children. How can this marriage possibly be annulled by the Church?**

The duration of a marriage and the number of children makes absolutely no difference to the validity or non-validity of a marriage. In other words, if the initial consent was defective, i.e. invalid due to an undetected impediment, then neither the length of time nor the number of children validate that defective initial consent.

### 23. **If I receive an annulment does that mean my children are illegitimate?**

**DEFINITELY NOT, a declaration of nullity has absolutely no effect upon the legitimacy of any children born of the marriage.** The declaration of nullity (annulment) does not affect in any manner the legitimacy of children, names, property, maintenance payments, inheritance rights or other matters dealt with in the civil courts. As a matter of fact, the law of the Church expressly states that “children conceived or born of a valid or putative (i.e. at first considered valid and later annulled) marriage are legitimate”. (Canon 1137). It does not change the legal stipulations of the divorce, such as child support and visitation. A declaration of nullity does not relieve one of his or her moral obligations as a parent. Both civil law and Church law recognize the important responsibility that one assumes in becoming a parent and expects that parental obligations be fulfilled.

### 24. **If my petition for an annulment is successful does that mean that my former spouse is granted one also?**

Yes. Both partners are now free to remarry in the Catholic Church. However, in some cases a conditional restriction may be imposed because of the circumstances that gave rise to the



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invalidity of the first marriage. This would then have to be investigated at the time a request is made by that person(s) for remarriage in the Church.

### **25. Is a declaration of nullity granted to everyone who petitions?**

Not everyone who petitions for a declaration of nullity receives one. The acceptance of a petition should not be interpreted or understood as a guarantee that a declaration of nullity will be granted.

A declaration of nullity is only granted when the evidence provided to the tribunal clearly shows that despite the good intentions of both parties, on the day of the wedding, when the two parties exchanged their vows, one or more of the elements which the Church considers essential for a valid marriage was lacking.

A negative decision is possible if there is not sufficient evidence to prove that on the day of the wedding, an essential element of marriage was lacking.

### **26. Is the decision of the tribunal final?**

The decision of the tribunal is not final. Either spouse has the right to appeal the decision of the tribunal.

Church law requires that every affirmative decision, that is a decision in favor of the nullity of the marriage, must be reviewed by an Appellate Court. The affirmative decision becomes final when the Appellate Court issues a second affirmative decision. The Appellate Court is not obligated to issue a second affirmative decision in any case. It is possible that the Appellate Court will not agree with the first decision.