

Divorce with No New Marriage in the Church

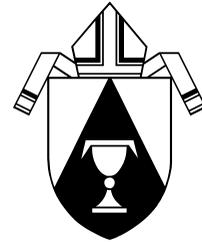
Divorce of itself does not prohibit a Catholic from receiving the sacraments or limit his/her involvement in the Church. However, Church discipline holds that divorced Catholics who remarry without a declaration of nullity may not receive the Eucharist. The church encourages such Catholics to continue practicing their Catholic faith and being active in the Church in all other ways, assuring them of God's love ;and reminding pastors that these persons are entitled to pastoral care. If a marriage case has been processed by the Church's Tribunal and a declaration of nullity could not be given, the parties are encouraged to consult their pastor or pastoral ministry for appropriate direction and guidance on how best to continue living their Catholic faith and participating in the Church.

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THE TRIBUNAL

DIocese OF SACRAMENTO



ANNULMENT

*...a time for healing
and reconciliation*

**Salus Animarum
Suprema Lex**

**"The salvation of souls is
the supreme law."**

... A Time for Healing and Reconciliation

What is the Marriage Tribunal?

The *Code of Canon Law* directs that every bishop establish an office whose purpose is to determine whether or not a particular marriage is a binding union. This diocesan office is staffed by specially trained priests, deacons, religious and lay persons who study a failed marriage and determine whether the relationship was a true marriage as described by the Church.

Defining Marriage

The Church teaches that marriage, within God's plan, is an intimate partnership of life and love. The Church expects a man and a woman to commit themselves to each other for life. They are to be faithful to each other and open to having children. Husbands and wives render mutual help and service to each other through an intimate union of their persons and of their lives. In short, marriage is a union of two persons, an interpersonal relationship which includes the sharing of the whole of their lives. This commitment of spouses presumes sufficient maturity, freedom, knowledge, and psychological capacity.

What is an Annulment?

The term "annulment" is a popular, but not totally accurate, word for a declaration of nullity which is an official declaration by the Tribunal that what appeared to be a marriage was in fact, not a true marriage as the Church understands it. A declaration of nullity does not deny that a relationship existed, nor does it imply that the relationship was entered into with ill will or moral fault. Rather, after a careful and thorough study, the Tribunal issues a declaration of nullity when it is proven that some ingredient necessary for a true marriage (e.g., proper intention, sufficient psychological maturity, capacity, freedom, and knowledge) was lacking when consent was exchanged.

Who May Apply for a Declaration of Nullity?

Anyone, baptized or unbaptized, Catholic or non-Catholic, may petition for a declaration of nullity.

Does a Declaration of Nullity Affect the Legitimacy of Children?

No. Children born of a marriage which might later be declared null are protected by Church law and are considered legitimate. In fact, when nullity is declared by the Church, there are no civil consequences on such issues as legitimacy of children, property settlement, child support, inheritance rights, etc.

The Process

The following is a brief outline of how a formal case proceeds:

1. The petitioner contacts the parish where he/she lives. An interview is conducted by a parish advocate (priest, deacon, pastoral minister) who explains the process, answers questions, and assists in the preparation of the initial documents. You will need: a current copy of your baptismal certificate with notations (if Catholic), marriage certificate, final decree of divorce, and a short summary of the relationship (see "A Guide to Writing Your Summary" for help). These documents, along with a \$150 non-refundable deposit, are submitted to the Tribunal by the parish advocate.



***An annulment does not mean that the marriage never occurred,
but that it was not the God-given bond of the sacrament of marriage.***

2. The location where the marriage occurred and the residence of the respondent determines which Tribunal will have jurisdiction. Usually, the Tribunal of the petitioner (person seeking the declaration of nullity) accepts the case, with the consent of the Tribunal where the respondent (former spouse) lives. It is required that the petitioner's civil divorce be final before the Tribunal can accept the case.

3. The Tribunal sends a questionnaire to the petitioner and asks that he/she give full account of the marriage to be evaluated.

4. The former spouse (respondent) must be contacted by the Tribunal, informed of his/her rights, and, if willing to participate in the process, is sent a questionnaire. If the respondent chooses not to participate, the progress of the case is sometimes impeded, but the case moves forward.

5. The petitioner names witnesses, i.e., people who knew the parties well during the courtship and marriage and are willing to offer objective and insightful information. The respondent, if cooperating, is also asked to name witnesses.

6. The respondent may appoint an advocate from the Tribunal staff or another advocate to represent his/her case.

7. The Defender of the Bond (a member of the Tribunal staff designated to protect the marriage bond) evaluates the case and present all significant reasons that would argue in favor of a valid marriage and against a declaration of nullity.

8. The Judge (or Judges) of the Tribunal carefully studies the case, often consulting with psychological and pastoral experts. If the judge reaches moral certitude that invalidity has been established, then the Judge issues a declaration of nullity.

9. Both parties have a right to appeal the decision rendered by the Judge(s). Even if there is no appeal, all declarations of nullity receive a mandatory review by another panel of judges (Court of Second Instance).

What are the Rights of the Parties?

The petitioner has the right to request that his/her former marriage be studied by a Tribunal that has jurisdiction. The respondent has the right to know that this petition has been entered. Both parties have the right to give a statement about the marriage, to read each other's statement, to have an advocate, to name witnesses, to read the Judge's decision and to appeal the decision if he/she believes procedural rights have been denied or that the decision was in error.

Is the Procedure Draining?

Sometimes. Digging up the past and recalling painful experiences can be difficult. However, there is much to be gained by facing the reality of a failed relationship and admitting appropriate responsibility for it. The process affords the opportunity for increased insight into self, clarity about relational issues and necessary healing and closure. It also affords a deepening of one's relationship with the Church and with God.

How Long Does the Process Take?

Each case is unique and processing time varies for each case. Factors such as the strength of the grounds, the involvement and insight of the petitioner and respondent, the cooperation of the witnesses and the quality of their testimony, and the requirement for review of every case by the Court of Second Instance have a significant effect on the length of time each case takes. Generally it takes between 12 and 18 months to complete. No new marriage may be scheduled in any Catholic parish until the process is complete. While many declarations of nullity are granted, this is not true for all cases.

What are the Fees?

Although the actual costs are much higher, the fee for process a formal case is \$600, which includes the \$150 non-refundable deposit required at the start of the case. The balance (\$450) will be billed periodically when the case is formally accepted. Monthly payments are acceptable. An additional fee is required if an expert witness is required for a case. It is important to know that financial means in no way affects the progress of a person's case or the eventual decision.

What about Confidentiality?

Inspection of the Acts only takes place by prior appointment at the Tribunal office during those times provided by Church law. Parties are notified of their opportunity during the course of the investigation. Documents or copies are never removed from the Tribunal.

Is One Free to Remarry in the Church after Receiving a Declaration of Nullity?

If a marriage is declared null, and there are no restrictions concerning remarriage, the usual procedure of preparing for marriage in the Catholic Church may be started by contacting the local parish. The respondent derives the same benefits as the petitioner from a declaration of nullity and is free to remarry in the Church once an affirmative decision is rendered.

If a marriage is declared null for causes that may still exist, a second marriage obviously cannot be permitted until it has been demonstrated that the cause which invalidated the first marriage has been removed. Therefore, a professional evaluation and counseling may be required in such situations, along with pastoral counseling. Again, such restriction may be placed on one or both parties.

What if a Declaration of Nullity is not Issued?

A petition for nullity can be rejected by the Tribunal when there are no apparent grounds or legal basis according to Church law, or when the grounds for nullity cannot be substantiated because of inadequate witness testimony or documents. However, a rejected petition for nullity may be reintroduced at some future time, when additional information and testimony becomes available.