



FAQs

Office of the Tribunal
Archdiocese of San Antonio
www.archsa.org/tribunal

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The Process

- 1 **What is a declaration of invalidity/nullity?**

A declaration of invalidity, commonly (and incorrectly) called an “annulment,” is a decision that is made by the Church, which acknowledges that a couple never validly established the sacred bond of marriage. This "declaration" can only be made after one of the parties in a former marriage requests it, and only after a detailed study of the marriage has been carried out. The process of declaring a marriage bond to be 'invalid' examines the intention and understanding of both people at the time of their wedding to see if the necessary elements of a full and true marriage were present (i.e., ability to make consent, permanence, fidelity, the ability for true companionship and love of the spouses, and openness to generating and educating children).

The declaration of invalidity process seeks to determine whether or not there was anything that prevented these elements from being present in the relationship, despite the fact that both individuals may have entered the marriage with the best of intentions. Marriages rarely fail because of ill will or malice. It could happen that one or both spouses were unable to create the quality of relationship necessary to establish this sacred bond. If the Church declares that a prior bond of marriage was not properly established, the parties are considered free to celebrate a new marriage in the church. A declaration of invalidity is a religious decision that does not have any civil effect on the relationship or legitimacy of any children born of the union.
- 2 **Why does the Catholic Church have marriage tribunals?**

The Catholic Church is committed to the teachings of Jesus Christ concerning marriage. It is also committed to manifesting the compassion of Jesus to those people whose marriages have failed. So the Catholic Church and its ministers are committed to be both "prophetic" (to teach what Jesus taught) and to be "pastoral" (to minister to those people whose marriages have ended in a civil divorce). Marriage courts are established to respond to requests that are made by those who have received a divorce to investigate whether or not their former marriage was validly established according to the church's understanding of marriage.

The people who work in the marriage tribunal look upon their effort as a healing ministry, an expression of the Church's compassion and concern for those whose marriages have ended. The Church has a system of courts to handle marriage invalidity cases. Those who believe that their marriage was not validly established, have the right to petition a tribunal to look into their claim. The work of the Tribunal, for the most part, involves a process of reviewing and discerning the basis of such petitions.
- 3 **Null and void, validity and invalidity; what does it all mean?**

A declaration of invalidity affirms the fact that the sacred bond of marriage was not validly established at the wedding, according to Church teaching and Church law. In other words, the bond of marriage that was presumed to exist, does not, and is considered to be null. A civil union existed, but the sacred bond of marriage was not validly established. In order for a marriage to be properly established, there must be certain requirements present in the individual who consents to marriage at the time of the wedding. If any of these requirements are absent or seriously distorted, a review judge can declare that the act of consenting to marriage was made in an invalid way, therein indicating that the marriage bond has no effect and is null. Church law determines what these requirements are and they will be discussed throughout this information. In summary, a declaration of invalidity does not break the marriage bond. A declaration of invalidity declares that the marriage bond was never validly established at the time of consent according to Church teaching and Church law.

Marriage enjoys the favor of the law. Consequently, in doubt, the validity of a marriage must be upheld until the contrary is proven (Code of Canon Law, canon 1060).

4	<p>How do you start the process?</p> <p>A declaration of nullity process is for the most part a written process. The people involved, including the many witnesses, do not have to appear before a judge in a setting similar to that of a civil court. No individual has to worry about being scrutinized, "face-to-face," by a lawyer. All the information is written down and the review judge reads through it before making a decision.</p> <p>The petitioning spouse may approach any priest, deacon, or certified parish staff member in the Archdiocese of San Antonio. This person will assume the role of submitting minister. It is very important to work with the submitting minister in completing the application form. Submission of the application form is the first formal step in the process.</p> <p>The application form asks for biographical data, as well as a detailed history of the marriage. The completed application, with all necessary documents (i.e. marriage license and divorce decree), is then forwarded to the Metropolitan Tribunal by the submitting minister. Someone from the Metropolitan Tribunal will contact the petitioner by mail to explain if the case can be officially accepted for further review. Once the application is officially accepted, the Metropolitan Tribunal will gather further documentation in the following weeks. This consists of pre-marriage preparation records from the Church of marriage. The petitioner and the respondent are notified each time the process reaches a new and different stage. A personal interview can always be requested if it is the preference of the one presenting information to the tribunal.</p> <p style="text-align: center;"><i>Initial steps:</i></p> <ol style="list-style-type: none"> 1) Obtain a civil divorce 2) At your parish, talk to the priest, deacon, or designated parish staff for this process. 3) Complete the petition and submit the required documents.
5	<p>How long does the process take?</p> <p>Due to the great number of cases considered and the requirements of Church law, an exact time for the final decision cannot be specified. The process usually takes about one year, but length will vary from case to case. In fact, in this diocese, no Church official is free to determine a specific date for a subsequent marriage until the Metropolitan Tribunal gives notification of the outcome of the case.</p> <p>A case can be completed more expeditiously if the witnesses submit their answers promptly and coherently. Once all the information is collected, the case can move to the next step. The parties are always free to contact their advocate for an update on the status of their case. Since others are also waiting for their petitions to be answered, cases cannot be "bumped-up" or "given priority". There is one exception to this. If a person is dying, Church law allows the tribunal to immediately deal with the case.</p>
6	<p>Who needs an annulment/declaration of invalidity?</p> <p>Any person, (i.e., Christian or non-Christian, Catholic or Protestant), who wishes to enter marriage in the Catholic Church, and who has a former spouse who is living, needs to look at the possibility of a declaration of invalidity in order to determine that they are free to marry in the Catholic Church. The fact that a couple was married before a Catholic priest and two witnesses does not necessarily guarantee that all the requirements were present to establish a full and valid marriage. As part of its fundamental teaching on marriage, the Catholic Church does not recognize divorce as ending the bond established in marriage, believing that marriage is binding until death. While the presumption always exists that a marriage is valid, either of the spouses has the right to ask the Church to examine this presumption after common life has ceased, there is no hope of reconciliation, and a civil divorce has been obtained.</p>

7	<p>Will my former spouse be contacted?</p> <p>The Tribunal must inform the other spouse (called the respondent) that the review has been initiated and must offer that person the opportunity to participate. Church law requires this. A letter is sent to the respondent giving him or her the option of fully participating in the process. If the respondent does not want to cooperate, the tribunal is not bound to wait indefinitely for a response before moving the case forward or bringing it to judgment. A reasonable time is given to the respondent to reply. The case will not be held-up by needless stalling tactics by one of the parties. The judge is free to set reasonable time limits, though some he cannot change due to the requirements of Church law.</p> <p>The declaration of invalidity process expects that the other party will participate by presenting information concerning the relationship. If their conscience, for whatever reason, would rather have them remain silent, he or she can rely on the justice of the court. This means that the review judge will assign someone to make sure that this person will be properly regarded in the process.</p>
8	<p>What is the fee?</p> <p>Pope Francis has requested that dioceses whenever possible to provide their Tribunal services free of charge. In the Archdiocese of San Antonio, only 50% of the costs related to the operations of the Tribunal are subsidized by the Archdiocese. Therefore, we ask for your help in supporting this ministry. \$450 is standard fee requested by the Tribunal. Payments can be paid over time in installments, your parish may be able to help, or in cases of extreme need, the fee can be reduced or waived.</p> <p><i>Lack of financial ability will prevent no one from receiving the services of the Tribunal.</i></p>
9	<p>How does the Catholic Church regard non-Catholic marriages?</p> <p>The Church considers the marriage bond between non-Catholics to be as equally binding as those of Catholics. Like marriages in the Catholic Church, the validity of these marriages is presumed until the contrary is proven. Therefore, the marriage of two non-baptized people is presumed to be valid. The marriage of two Protestant people is presumed to be valid. Finally, the marriage of a Protestant and a non-baptized person is presumed to be valid. Religious decisions regarding the effects of marriage and the possibility of remarriage that are made by other religions or Christian denominations, do not enjoy legal effect in Catholic Church law. People who have received a decision from the relevant authority of another Faith will still need to have a declaration of invalidity if they intend to celebrate a marriage in the Catholic Church.</p>
10	<p>How does the Tribunal arrive at a decision?</p> <p>The review judge asks for information from both parties in the marriage under review. The information of witnesses and other documentary information is then gathered. Both parties can offer additional information up until a point in time that is determined by the review judge.</p> <p>The procurator/advocate may then draw up a summary of their party's position on the matter at hand. In turn, the defender of the bond must draw up a similar statement in favor of the validity of the marriage. In certain cases the review judge may consult a psychological expert or other review judges to assist him in understanding the information. The review judge then studies the information and makes a decision. In summary, the final decision of the review judge is based on three criteria: the legal grounds as contained in the Code of Canon Law (i.e., ways of understanding the nullity); as understood by the judge(s) and the jurisprudence of the Vatican courts; in light of the information given to the tribunal (statements, declarations, depositions, documents, and reports submitted by the parties or professional counselors).</p> <p>Once the process begins, it does not stop unless the petitioner formally withdraws the application or neglects to follow through on a request of the review judge. A withdrawn or abated application is considered inactive, awaiting renewed interest by either of the parties or new information.</p>

11	<p>What information is used during the process?</p> <p>The result of a procedure seeking a declaration of invalidity rests largely on the information provided by the spouses and on witnesses who know facts concerning the relationship. The petitioner is expected to supply the names and addresses of at least three people who can act as witnesses. These people may be family, friends, or acquaintances who can identify the significant problems in the dating, courtship, and years of common life.</p> <p>The respondent can also offer witnesses and other information. It is expected that the one who presents the names of witnesses will have secured their cooperation before submitting the names to the tribunal. The tribunal must hear from witnesses. A case is unable to proceed without them. Witnesses are important for an objective evaluation of the marriage relationship. The best witnesses are those who can provide facts regarding the onset of problems in the relationship. If the information they provide proves insufficient, the tribunal will have to request additional witnesses. Witnesses are asked a number of questions detailing their knowledge of the marriage and the spouses.</p> <p>Questions are asked about specific events in the courtship and marriage, and for an opinion concerning the relationship and what went wrong. Any other information that might be helpful, such as reports from therapists, counselors, or other professionals consulted during the marriage, can also be submitted.</p>
12	<p>How is my information protected/kept confidential? Who can see my file?</p> <p>The following are those who have access to the evidence: judge, defender of the bond, court notaries appointed by the judge, the two parties (during a period of fifteen days near the end of the process), procurator / advocates (if they are properly appointed by the parties), court experts (if appointed by the judge). We recognize the delicate and personal nature of the information gathered in this process.</p> <p>We do not share this information with anyone not directly involved in the review. Church law guarantees the right of each party to know the other party's contention, as well as a summary of the witness testimony. An oath of confidentiality must be made before looking at the information. This right is observed by allowing parties, or their advocates, a controlled opportunity to review the information at the offices of the Metropolitan Tribunal, or at another tribunal if the person lives in another diocese. This means that copies of the documents cannot and will not be made and given to the parties.</p> <p>The Metropolitan Tribunal exists as part of the ministry of the diocese. It abhors any malicious action on the part of the parties to hurt one another. The review judge can restrict the rights of either party to review the information if his or her intention is to not seek the truth, but rather, cause mischief and needless delay. In certain cases the review judge may seek the opinion of a qualified psychological expert.</p> <p>These experts are held to the same strict standards of confidentiality as any other member of the tribunal staff. Such individuals are trained professionals who do not decide the outcome of the declaration of invalidity but merely advise the review judge about the dynamics that could have contributed to the failure of the relationship. Certain reports for specialists and experts usually will not be made accessible to the other party. If you have specific questions about confidentiality and access rights, please <u>contact</u> the Tribunal.</p>
13	<p>What happens if I receive an affirmative decision?</p> <p>If a case is concluded with an affirmative decision, it is held for 15 business days to give either party the opportunity to appeal. The Archdiocese of San Antonio sends its appeal cases to the Diocese of Dallas. If there is no appeal a Decree of Execution is sent stating the freedom to marry. If there is an appeal in writing, the Second Instance Court in Dallas will indicate what to do.</p>

14	<p>What happens if I receive a negative decision?</p> <p>Applications are screened carefully before acceptance. In some cases, a negative decision is the only conclusion that the review judge can make. In the event of a negative decision, it may be hard to understand how the Church could come to such a conclusion given the fact that a person wants to validate a current civil union in the "eyes of the Church," or marry a Catholic in the Catholic Church. Tribunal decisions are not granted out of favor or pity, but for reasons of fact. Sometimes the only conclusion that the review judge can make is that the marriage bond cannot be proven to be null.</p> <p>A negative decision in a case can be appealed by either of the spouses. An appeal of a negative decision needs to be explicitly requested.</p>
15	<p>Can my former spouse contest a declaration of invalidity?</p> <p>A declaration of invalidity process does not wish to place the spouses in the position of adversaries, trying to determine fault or blame. Both spouses have equal voice in the review. He or she can present information, name witnesses, and have a procurator/advocate with whom to work. The petitioner has no advantage being the petitioner.</p> <p>The review judge remains impartial to both parties. Sometimes one spouse attempts to turn the declaration of invalidity process into a continuation of the arguments that were present at the divorce. The respondent may incorrectly see a petition as his or her spouse asking the Church to assign blame or condemn them for their actions in the marriage. The respondent may not understand how the Church can allow the so-called "guilty" person to request a declaration of invalidity, and will tend to see the declaration of invalidity as condoning the sinful actions of that spouse.</p> <p>The spouses in the marriage are not judged; the bond of marriage is what is judged. The respondent is encouraged to actively participate in the proceedings. An attempt is made to answer all of the respondent's questions in a manner that assures this person that he or she is an equal participant in the process. Sometimes both parties join their efforts in seeking an affirmative decision. At other times, the respondent is indifferent towards the outcome. Speak up, present your case, consult with each other (Isaiah 45:21)</p>
16	<p>My current fiancé/e and I want to marry in the Catholic Church. I/he/she has applied for a declaration of invalidity. When can we set a date for our wedding?</p> <p>You cannot set a date for a subsequent wedding until you have received the final decree of invalidity. This is due to the fact that your petition may receive a negative decision, or there may be unexpected delays in the process (such as appeals from your former spouse).</p>

Effects of the Annulment/Declaration of Invalidity

17	<p>What makes a marriage invalid?</p> <p>Marriage is for people who are capable of making an adult commitment. Not everyone may be capable of assuming the essential rights and obligations of marriage and family life. Everyone knows that children are not capable of marriage. We also know that those who suffer from serious psychological illness are not likely able to commit to marriage. Certainly, other psychological dysfunctions may raise the issue of the capacity of an individual to enter marriage. If someone cannot hold a job, or assume ordinary personal responsibilities, or can not communicate adequately on an interpersonal adult level so as to share oneself with a spouse, then the capacity of that person for establishing a full and true marriage becomes questionable. Moreover, the commitment to marriage must be made freely (without outside pressure) and with serious forethought regarding the responsibilities that are assumed in marriage.</p> <p>Today, some people enter unions with less consideration than they bring to purchasing an automobile! In our culture, we are very much aware of how addiction to substances (alcohol and drugs) plays a role in disrupting married life. If one is already addicted at the time of consent, a concern should be raised about the person's capacity to establish a true marriage. Also, such things as a "divorce mentality" and "hidden conditions" may come into play. If someone approaches marriage with the conviction that he or she can always "get out of it" if one chooses to do so, that may invalidate marriage consent. There are many other factors that could negatively affect consent. Deception, fraud, grave error, or force and fear, can also affect the validity of a marriage bond.</p>
18	<p>Does an annulment mean my marriage "never existed?"</p> <p>No. Obviously the couple was wed according to civil law and lived together, and possibly had children. They have a "history" from being together. It is presumed that both parties entered the marriage with good intentions. No one can deny that a relationship existed in some fashion, at least for a time, with its own joys and sorrows, its own hopes and disappointments. Good and bad memories will always remain. In almost all cases, a civilly recognized union was at least certainly present.</p>
19	<p>Does only one spouse receive the declaration of invalidity?</p> <p>No. If a declaration of invalidity is made, both people are free to marry (unless a stipulation, temporarily holding-up immediate access to a future marriage, is placed on one or both parties at the time of a declaration of invalidity. A negative decision, in effect, admits that the evidence does not show that the marriage bond was not properly established and binding. The parties therefore are not free to celebrate a marriage in the church. A tribunal has the task of examining whether the parties gave full and unqualified consent to the marriage and whether they had the capacity to carry out what they vowed.</p> <p>The tribunal does not act as a judge of moral action. A declaration of invalidity should not be interpreted as an award granted to either party, but rather a factual determination about the bond of marriage. A declaration of invalidity should not be seen as a stamp of approval for particular behavior in a marriage. Declarations of invalidity cannot be purchased and the judges will not be influenced in their decision.</p>

20	<p>How can the Church declare a marriage invalid when it lasted many years and produced children?</p> <p>In order for a valid bond of marriage to be established, there must be a true partnership of permanence and fidelity that is open to the generation and education of children. The fact that a marriage lasted many years and produced children is not absolute proof that all the requirements for a valid marriage bond were met at the time of the wedding. It should not come as a surprise that people get trapped in severely destructive patterns of behavior that cause them to stay in marriages. In some cases, one of the spouses knows that he or she will not be able to survive financially if they leave the marriage.</p> <p>There are still others that fear an unfavorable reaction from family and friends, and consequently deal with abhorrently abusive situations. Still others stay in the marriage "for the sake of the children." There are always significant reasons why a review judge comes to a decision regarding the invalidity of a marriage. From the perspective of those not involved in the case, the benefit of any doubt must always be given to the competence of the review judge, who through the confidence of the Archbishop of San Antonio, continues this important ministry and service to the Church.</p>
21	<p>Does a declaration of invalidity affect the legitimacy of the children?</p> <p>A declaration of invalidity, made by the Church, is strictly a religious matter and does not affect the civil facts of the marriage. A declaration of invalidity is an evaluation of the spousal relationship, exclusively, and does not involve the legal standing of children. If a marriage was entered into in good faith, that is to say that the couple anticipated a healthy life-long marriage, and even though the marriage was proven to have been invalidly established at a later date, the good faith of the couple provided enough of a union to satisfy the notion of children being born within the benefit of marriage. This fact is written into the Church's teaching and law.</p>
22	<p>What is the status of a divorced Catholic in the Church?</p> <p>The Church does not teach that civil divorce is grounds for excommunication. Catholics who are divorced and who have not entered another civil union are encouraged to practice their faith, including reception of the sacraments. Being separated or divorced, on its own, does not affect one's status in the Church. Catholics who happen to be divorced are full members of the Church with all of the same rights and duties as any other member of Christ's faithful.</p> <p>Catholics who are divorced and who have remarried without a declaration of invalidity* are not free to receive the sacraments until they celebrate the marriage in the Church. They are however encouraged to practice other aspects of their faith. People in this situation can certainly attend mass, pray, study scripture, etc.</p> <p>*Also included are dissolutions of marriage through a Pauline Privilege, Privilege of the Faith, and Ratified and Non-Consummated marriage.</p>
Representation & Staff	
23	<p>What is an advocate?</p> <p>The advocate's role is both to act on behalf of the party he or she is representing and to assist the Church in finding the truth. The "advocate" aspect of the role involves being available to answer any questions that may arise from the person he or she represents. Once all the information for the case is gathered, the advocate may be requested to compose a brief argument on behalf of the party and submit it to the review judge.</p>

24	<p>What is a judge?</p> <p>The judge is a trained expert in Church law and is appointed by the Archbishop of San Antonio. The review judge has to make the final decision of whether the bond of marriage was properly established. Judgments are ordinarily made by a single judge but from time to time three review judges may be asked to consult with one another in making a decision. In cases when common life lasted for many years, it is not unusual for a group of review judges to make the final decision.</p> <p>The review judge remains impartial throughout the trial. His purpose is to oversee that rights have been respected and that a morally certain decision is made on the facts that have been gathered. He makes the final decision on the case.</p>
25	<p>What is a Defender of the Bond?</p> <p>Church law specifies that a defender of the bond must be assigned to every case. The defender of the bond is an approved expert in Church law and is appointed by the Archbishop of San Antonio. The defender of the bond assures that everything undertaken in the proceedings satisfies the requirements of Church law, especially that the parties in the process have been afforded their full rights.</p> <p>The defender of the bond reviews the information and raises those facts that support the presumption that the marriage was indeed validly established. The defender of the bond has the power to appeal a decision; however, he or she usually only appeals in instances of serious gaps in the information, an unsubstantiated decision of the review judge, or flagrant abuses in procedure.</p>