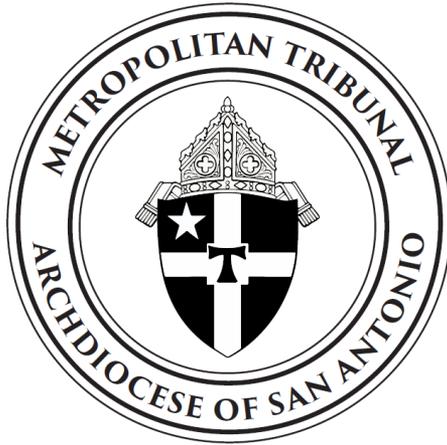


**FREQUENTLY
ASKED
QUESTIONS**



**ABOUT
ANNULMENTS**

Revised April 2022

COME, HOLY SPIRIT!

***Come, Holy Spirit, fill the hearts of your faithful
and enkindle in them the fire of your love.
Send forth your Spirit and they shall be created.
And you shall renew the face of the earth.***

Let us pray.

***O God, Who did instruct the hearts of the faithful
by the light of the Holy Spirit,
grant us in the same Spirit
to be truly wise, and ever to rejoice in his consolation.
Through Christ our Lord. Amen.***

How is it possible to declare a marriage invalid? Isn't marriage forever?

- The Catholic Church believes that every valid, sacramental and consummated marriage is indissoluble. This is our understanding of God's law as found in the Scriptures, as well as 2,000 years of Catholic Church teaching.
- If both parties to a marriage are still living, a marriage must be proven to be invalid, even if the parties are civilly divorced, in order for either of the parties to contract a new marriage in the Catholic Church.
- If one or more of the essential elements are missing from the beginning of the marriage, a marriage may be declared invalid by a Judge of a Tribunal. This is considered a judicial decision, not a moral judgment on the lives of the parties involved.

What is the difference between a Divorce and an Annulment (or a Declaration of Marriage Nullity)?

- A civil divorce is a legal action whereby the division of property and custody of children having been settled, a civil dissolution 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 the initial consent in that marriage.
- By contrast, if the gathered factual evidence, examined in the light of canon (Church) law, shows that a particular marriage was not canonically valid, the Church's Tribunal declares it null and void. This is the ecclesiastical Decree of Marriage Nullity (colloquially called an "annulment"). The Church does not make the marriage null, but rather recognizes that the marriage is null.

Can a marriage lasting many years be declared invalid?

- The Tribunal process examines the events leading up to, and at the time of the wedding ceremony, in an effort to determine whether what was required for a valid marriage was ever brought about.
- The length of common life is not proof of validity but a long marriage does provide evidence that a couple had some capacity for a life-long commitment. It does not prove or disprove the existence of a valid marriage bond.

Does one party to the marriage have to be "at fault" for a marriage to be declared invalid?

- A Decree of Marriage Nullity does not imply that the relationship was entered into with ill will or moral fault.

- Rather, after a careful and thorough study, the Tribunal issues a Decree of Marriage Nullity when it is proven that some ingredient necessary for a true marriage (e.g., proper intention, sufficient psychological maturity, capacity, freedom or knowledge) was lacking when consent was exchanged.

How does an Annulment impact our Children?

- There are no civil implications of a Catholic Declaration of Marriage Nullity that would impact the civil standing of children of a marriage that was later declared invalid.
- Children are a gift from God. A declaration of marriage nullity does not reflect on them in any way. A declaration of marriage nullity is a judgment of the marriage; it is not a judgment of the parties; and it is certainly not a judgment of the children of the marriage.

Who will know that I have submitted a petition?

- Outside of Tribunal Officials, who are sworn to confidentiality, only those people that you have directly informed will know that you have submitted a petition. If the case is accepted, your former spouse and witnesses, proposed by you or your former spouse would be made aware by the Tribunal that a petition has been submitted.
- If you work through a Submitting Minister from your parish, your Submitting Minister will be aware that you have a case before the Tribunal. If that person is not a Pastor, he or she was delegated for this ministry by his or her Pastor, who may also be aware of the case. Both Pastors and Submitting Ministers exercise the highest degree of confidentiality regarding this ministry.

How long does the process take?

- Each case is unique.
We cannot guarantee a finish date for cases.
Some cases are able to be resolved quickly, while others may take a few years.
- Typically, cases heard by the Metropolitan Tribunal of the Archdiocese of San Antonio are completed within a year.
- **DO NOT SET A DATE FOR A FUTURE WEDDING** until your Marriage Nullity case has concluded; and you have received a Final Notification Letter that a Declaration of Marriage Nullity was granted; and that any prohibitions placed on you regarding your eligibility to attempt future marriage in the Catholic Church have been lifted.
- Remember, the outcome of a case is not guaranteed to be in favor of marriage nullity, nor can the timing of the resolution of a case be guaranteed.

How much does it cost?

- Fees vary from Tribunal to Tribunal.
- The Metropolitan Tribunal of the Archdiocese of San Antonio asks for a standard fee of \$450 to help defray the costs associated with each case.
- Typically, Petitioners submit a deposit of \$100 with their petitions and pay the remaining \$350 when their cases are completed. For those who are not able to pay the fee, the Tribunal will accept petitions without payment.

- In actuality, expenses associated with each case far exceed this amount. Whatever amount you can provide toward the \$450 fee, or even above that amount, if it is within your means, is greatly appreciated and will be used to support this important ministry.
- As soon as your case arrives, regardless of whether any payment was made or not, our Tribunal staff begins assessing and working your case. Please **DO NOT DELAY** submitting a petition if you cannot make any payment at this time.

***Who can petition the Tribunal for an Annulment
(or a Declaration of Marriage Nullity)?***

- Either party to a marriage that has ended in divorce has the right to ask the Church to help them discern the canonical status of a prior marriage, that is, if the marriage is null or invalid. This includes you and your former spouse.
- In order for the Tribunal of San Antonio to have "competence" to hear your case, at least one of the following conditions must be met:
 1. The marriage took place somewhere in the Archdiocese of San Antonio.
 2. Either you or your former spouse currently live in the Archdiocese of San Antonio.

or one of you lives here some portion of the year.
 3. The majority of the proofs (or witnesses) are located in the Archdiocese of San Antonio.

Where do I find the petition form?

- You can find the current petition form on the Tribunal web site. Visit www.archsa.org/Tribunal and look for Forms.
- It is important to use the latest available form posted on the web site, in order for your case to progress as swiftly as possible.

How does one begin petitioning for an Annulment (or a Declaration of Marriage Nullity)?

Here are three possibilities:

1. Seeking Help from your Parish

You may want to connect with your neighborhood parish and get to know the Pastor and/or the person(s) he has delegated to accompany those seeking annulments. If you are not sure which parish is nearest you, consult the Archdiocesan web site. The Pastor or delegated Submitting Minister will assist you with your petition and submit it to the Tribunal on your behalf.

2. Seeking Help from a Trusted Priest or Deacon

You may approach a trusted Catholic priest or deacon, regardless of which parish they serve, and ask if he can assist you. The priest or deacon will assist you or direct you to a Submitting Minister who will assist you with your petition and submit it to the Tribunal on your behalf.

3. Seeking Help Directly from the Tribunal

The Tribunal Staff is ready to help you and is available in person, by telephone or by email. While we are happy to assist you directly, we always recommend options 1 or 2 above, so you can have the benefit of additional pastoral care beyond what the Tribunal can offer.

How do I prepare my petition?

There are a number of components. Each one of them is important. Most elements of your petition are found on the petition form. There are also a few documents to attach.

1. Petitioner's Libellus

The petition form includes the Libellus, which is found on the first two pages. Libellus means "little book." It is your official request of the Church to have the Tribunal investigate your marriage for a possible Declaration of Marriage Nullity, including a very brief statement of why you think the marriage might be null.

You will be asked for the full name and address of your former spouse. *If it is a hardship for you to obtain this information, please let your Submitting Minister or the Tribunal know why; perhaps we can help.*

Note: The Tribunal will never release your contact information to your former spouse or his or her contact information to you.

You will be asked to suggest a ground for nullity and why you believe it applies in your case. *If you are not sure what ground of nullity to suggest, please contact your Submitting Minister or the Tribunal.*

2. Petitioner's Questionnaire

The petition form includes the Petitioner's Questionnaire. This is a set of questions that helps the Judge understand the parties and the relationship between them. It consists of some fill-in-the-blank questions and some open-ended questions that you should answer as candidly and completely as possible.

3. Petitioner's Witness Form

The petition form includes the Petitioner's Witness Form. You are asked to supply at least two witnesses who can provide testimony regarding your background, your former spouse's background and/or the relationship between the two of you. Parents, brothers and sisters, and longtime friends are often excellent witnesses.

4. Submitting Ministers Recommendation Form

The petition form includes the Submitting Ministers Recommendation Form.

- If a parish minister is assisting you with the petition, he or she will complete this form and submit your entire petition to the Tribunal on your behalf.
- If you are completing the petition on your own without the help of a Submitting Minister, this page should be left blank.

5. Petitioner's Baptismal Certificate

This is an extra document you should include with your petition.

This is for those who are baptized Christians.

If you were never baptized, you do not need this document.

If you are Catholic, please know that every Catholic Church in the world responds to requests for baptismal certificates. Catholics, please ask for a copy of your baptismal certificate, with notations, so the certificate will include notations of any other sacraments you have received. If you were baptized outside the Catholic Church, whatever documentation you can gather regarding your baptism is appreciated.

If it is a hardship for you to obtain this documentation, please let your Submitting Minister or the Tribunal know why; perhaps we can help.

If you happen to have this documentation for your former spouse, please include it as well.

6. Marriage License and/or Certificate

This is an extra document you should include with your petition.

Most counties provide a way for you to request a copy of your marriage licenses online. If you were married at a church, the church may also be able to provide you with a certificate, confirming the details of the marriage. *If it is a hardship for you to obtain this documentation, please let your Submitting Minister or the Tribunal know why; perhaps we can help.*

7. Divorce Decree

This is an extra document you should include with your petition.

Please provide a complete copy of the divorce decree, including all pages. This should be a copy of the final document with the Judge's signature, not a working draft. *If it is a hardship for you to obtain this documentation, please let your Submitting Minister or the Tribunal know why; perhaps we can help.*

8. Other Documents

If other documents would corroborate your testimony, such as police reports, to give just one example, feel free to include these documents with your petition.

9. Payment or Deposit

Depending on your situation, please enclose either:

- \$450 for full payment; or
- \$100 deposit (and pay \$350 at the end of your case);
- Any amount toward the \$450; or
- \$0, if you are unable to make any payment.

Once your case has started, you will be assigned a case number. You should write your case number on checks, once you have been assigned a case number.

- We are able to accept checks or money orders, payable to the Archdiocese of San Antonio. Please be sure to include to write the word, “Tribunal,” and your full name in the memo field.
- Cash payment is also accepted in person; please do not put cash in the mail.
- We hope to be able to accept credit card payments in the near future.

What are the chances that I will be granted an Annulment?

- Each case is unique. We cannot guarantee an outcome.
- Frivolous cases are generally rejected at the outset. Historically, the majority of cases heard by the Tribunal of the Archdiocese of San Antonio have resulted in an affirmative decision for a Declaration of Marriage Nullity

Can I appeal if I am not granted an Annulment?

- Yes. For cases that are originally heard by the Tribunal of the Archdiocese of San Antonio, you can appeal a sentence to either the Tribunal of Diocese of Dallas or to the Roman Rota.

Do I have to contact my Former Spouse?

- We understand that every situation is unique. If you are uncomfortable doing so, you do not personally have to contact your former spouse, but the Tribunal has an obligation to offer your former spouse the opportunity to participate in the marriage investigation. Therefore, the petition form asks for contact info for your former spouse.

If you have no idea how to reach your former spouse, the Tribunal may have you respond to questions that might help the Tribunal locate your former spouse.

- If both parties to a marriage are in favor of a Declaration of Marriage Nullity and are in agreement about the basic facts of the case, it may be possible that the case qualifies for a Briefer Process.

What if my Former Spouse does not want to participate?

- If your Former Spouse does not choose to participate, the case will move forward based on the available testimony and evidence.
- Recall that a marriage must be proven to be invalid, and every marriage deserves a vigorous defense. The Judge will hear from a court official, known as the Defender of the Bond; and the Judge must still have moral certitude that the marriage has been proven to be invalid from day one, in order to issue a Declaration of Marriage Nullity. Therefore, this scenario in which a Former Spouse fails to participate does not guarantee a decision in favor of Marriage Nullity.

What if my Former Spouse is against the Annulment?

- You and your former spouse have the right to petition and to participate by providing testimony and witnesses. But neither of you can determine the outcome of the case.
- It is the Judge who makes the determination whether or not a Declaration of Marriage Nullity will be granted, based on his discernment of all the evidence, which may or may not be the result desired by either of the parties.

Will my Former Spouse see my testimony or the testimony of my witnesses?

- When the Judge has collected sufficient testimony to make a decision, the Judge invites each of the parties to review the evidence if they wish to do so. So, each of the parties has a right to see the testimony the Judge will use in making his decision.
- In order to exercise the right to review the testimony, a party must make an appointment to come to the Tribunal closest to them and review it with a Tribunal official. The party will also be required to sign an Oath of Confidentiality that they will not disclose what they learn with anyone else, including their former spouse, children or anyone else.
- For grave reasons, the Judge may exempt particular testimony from what is made available for the parties to review. This is handled on an exceptional basis.
- In practice, for a variety of reasons, most people do not choose to exercise this right.

How will my Witnesses be involved?

- A Witness is typically mailed a questionnaire, which the Witness returns to the Tribunal. Witnesses may also be contacted by phone or email for additional testimony.
- Witnesses do not have the right to know about or see any part of your case, except for the questions they are asked.

How will my Submitting Minister be involved?

- The Submitting Minister will accompany you throughout the process, from the time you begin working on your petition to the completion of your case.
- The Submitting Minister will be updated on the progress of your case, that is, what step the case is at, but will be given no access to testimony or documents.

For example, the Submitting Minister will be updated that your case has been accepted, or is with the Defender of the Bond, or is at the Sentence-Writing phase, but will not be given any personal information.

Regarding the specific details of your case, the Submitting Minister only knows what you have directly shown your Submitting Minister or chosen to share.

What is marriage?

Marriage is a permanent partnership of love and life between a man and a woman in which "the two become one flesh." God established marriage as the basic way of giving and receiving love and continuing the human race.

What marriages are considered valid by the Catholic Church?

All marriages are presumed valid until the contrary is proven. In considering whether a marriage bond is valid, the Catholic Church looks at the form of the marriage; the freedom of the parties; their capacity for entering into marriage; their knowledge of marriage and of each other; and their intentions in entering into marriage. A marriage could be declared invalid if something is lacking in any one of these areas.

Doesn't a priest have to be present for a marriage to be valid?

- In marriages involving Catholics, that is involving a person who was already baptized in the Catholic Church at the time of consent, the law of the Church obliges the couple to exchange their consent before two witnesses and their proper Catholic minister or a properly delegated Catholic minister (a bishop, a priest or a deacon) in order for the marriage to be valid.
- Similarly, for marriages involving faithful belonging to *Sui Iuris* Eastern Catholic Churches or Orthodox Churches, the couple must exchange consent before their proper minister (a bishop or priest) in order for the marriage to be valid.
- In all marriages, sacramental or not, it is the consent exchanged between the man and the woman that makes the marriage. So, for other Christians and non-Christians, where no natural impediment exists, a man and a woman may enter a valid marriage by the exchange of their consent to marry.

Can a marriage be valid between non-Christians or involving at least one unbaptized person?

These marriages, although not sacramental, are presumed to be natural marriage as God intended it; therefore, they are presumed to be valid by the Catholic Church.

Is marriage a sacrament?

If both spouses are validly baptized Christians, the marriage is a sacrament.

Can non-Catholics receive the Sacrament of Marriage, too?

- Yes. Two validly baptized (non-Catholic) Christians may contract the Sacrament of Marriage through the exchange of their mutual consent.
- Also, if given permission by the Church, a baptized Catholic and a validly baptized non-Catholic Christian may contract the Sacrament of Marriage through the exchange of their consent.

Does the Church only recognize Catholic marriages?

- No, it is a misconception that the Church only recognizes marriages celebrated in the Catholic Church. The reality is that the Catholic Church holds marriage in such high esteem, that the Church recognizes as valid, not only the marriages celebrated in the Catholic Church between Catholics, but also those of baptized non-Catholics and the unbaptized.

- Valid marriages between baptized people (whether Catholics or non-Catholics) are sacramental marriages; marriages involving at least one person, who is not a validly baptized Christian, 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, because the Catholic Church recognizes the validity of marriages between non-Catholics, if a Catholic wishes to marry a divorced person, who is not Catholic (whether baptized or unbaptized), a Decree of Marriage Nullity must be issued by a Tribunal regarding the prior marriage of the non-Catholic before the new union can take place in the Catholic Church.

Does a Declaration of Nullity (Annulment) mean that the marriage never happened?

- No. The decision of the Tribunal does not change the reality of the past. Relationships are not erased or undone. The Church recognizes that the parties contracted legally binding marriage, which has now ended in divorce. Even if a marriage is later declared invalid, it remains a significant part of the life journey of each of the parties, their families and others in the community.
- If a Tribunal grants a Declaration of Marriage Nullity, it means that the marriage in question, which the parties entered into, generally in good faith and with hope for a common future, lacked one or more of the elements which the Church believes are necessary for valid marriage.

- A Declaration of Marriage Nullity means the Tribunal has found that there was an impediment, an invalidating condition, or a defect of consent, that prevented the union from rising to the level of fullness God intends for marriage.
- A Declaration of Marriage Nullity does not relieve the parties from fulfilling their continuing moral obligations to others, stemming from the marriage, especially to children.

Does the granting of a Declaration of Marriage Nullity mean that I can marry again? Can my former spouse marry again?

- If a marriage is declared invalid and there are no other restrictions concerning remarriage, the usual procedure of preparing for marriage in the Catholic Church may be started by contacting the local parish.
- If a marriage is declared invalid 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. Such a restriction may be placed on one or both parties. It is not a punishment but meant to ensure that persons receive proper and adequate preparation for any new union.
- Each of the former spouses derive the same benefit from a Decree of Marriage Nullity and is free to re-marry in the Church once an affirmative decision has been rendered, if restrictions have not been placed on either party with a *Monitum* (caution) or a *Vetitum* (prohibition).

What are some Impediments to Marriage?

What circumstances make marriage impossible?

The Code of Canon Law addresses these questions by discussing "specific diriment impediments" or "objective impediments" that may affect the ability of one or both parties to consent to marriage.

- Insufficient Age, that is, less than 16 years of age for men or less than 14 years of age for women.
- Impotence (or the inability to have sexual intercourse) before the marriage and which is expected to continue throughout the marriage.
- Prior marriage vows to a living person.
- Marriage of a baptized Catholic to a non-Catholic or an unbaptized person.
- Prior ordination through the Sacrament of Holy Orders or vows as a Religious.
- Marriage to a close relative by blood, adoption or affinity.

What is Matrimonial Consent?

- Canon 1057 of the Code of Canon Law states, "The consent of the parties, legitimately manifested between persons qualified by law, makes marriage; no human power is able to supply this consent."

In sacramental terms, the man and the woman are the ministers of the Sacrament of Marriage, not the priest or deacon who performs the ceremony; therefore, in entering into the sacrament, they need to intend by an act of the will to do what the Church intends in the sacrament: "Matrimonial consent is an act of the will by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage."

What are some other Grounds for Nullity based on Consent?

Various circumstances can stand in the way of one or both of those entering a marriage giving their full consent at the time of the exchange of vows (according to Canons 1095-1098), including:

- Lack of sufficient use of reason
- Lack of due discretion of judgment concerning the essential matrimonial rights and duties
- Inability to assume the essential obligations of marriage for psychological reasons
- Ignorance that marriage is a permanent partnership between a man and a woman, ordered to the procreation of offspring by means of some sexual cooperation.
- Error about the identity of the person you are marrying
- Error about a quality of that person that negatively impacts the marriage
- Error about marriage itself or one of the essential properties or goods of marriage
- Fraud perpetrated or deceit to obtain consent of the other party
- Force or Fear that compelled consent to marry
- Total or partial simulation in not intending what the Church understands as marriage (e.g., with respect to the good of the spouses, openness to children, fidelity, or sacramentality).

What is the Tribunal? What is its purpose? How does it work?

- According to canon law, the Tribunal is the court established by the Diocesan Bishop to examine and adjudicate questions involving the status of persons, the protection of rights, and the imposition of penalties. In dealing with these questions, the San Antonio Metropolitan Tribunal cooperates with pastors and other offices in fostering pastoral care throughout the Archdiocese.
- The purpose of the Tribunal is to protect the rights of the faithful and all others who are entitled to approach the Tribunal, regarding their rights within the Catholic Church. This purpose is most often exercised in assisting people, who request that the Church examine the status of a prior marriage and their freedom to marry in the Catholic Church.

In reaching this determination, the Tribunal acts to protect the rights of both parties, including the right to one's good reputation, the right to a decision, and the procedural rights guaranteed by the law of the Church.

- The legal practice of the Tribunal is regulated by the Code of Canon Law and the jurisprudence of the tribunals of the universal Church. Those who have studied the law of the Catholic Church at pontifically approved schools, known as canon lawyers, also provide canonical advice to the Archbishop, Auxiliary Bishops, and to all the faithful (laity, religious and clergy).
- The work of the Tribunal is performed under the direction of the Judicial Vicar, a priest who presides over judicial matters within the Archdiocese.

- The Judicial Vicar is supported by clergy and laity who have been specifically appointed and approved by the Archbishop for their ministry in the Tribunal.
- In the USA, and in most other countries worldwide, a Tribunal decision has no effects in civil or common law. Rather, the work of the Tribunal deals with spiritual, canonical, ecclesiastical matters.

NOTES / MY QUESTIONS

DO YOU HAVE A QUESTION YOU WOULD LIKE TO ASK?

Our Tribunal Staff is here to serve you!

OFFICE HOURS: 8:30 a.m. – 5:00 p.m.
(Closed 12:00 p.m. – 1:00 p.m.)

ADDRESS: Tribunal
2718 W. Woodlawn Avenue
San Antonio, Texas 78228

PHONE: 210-734-1661 or 210-734-2620

FAX: 210-734-1987

EMAIL: Tribunal@archsa.org

WEB SITE: www.archsa.org/Tribunal

DO YOU NEED HELP AFTER HOURS?

Please leave us a message and suggest some days and times you can be reached either before or after office hours or on the weekend.