



CATHOLIC DIOCESE OF KALAMAZOO

Office of the Tribunal

215 N. Westnedge Street, Kalamazoo MI 49007-3760; 269-903-0215

GENERAL INFORMATION

The proceedings of the Tribunal are exclusively religious in nature and governed solely by the laws of the Roman Catholic Church. The purpose of its investigations is to determine the status of the parties in the Church, and to ascertain their freedom to enter into a marriage that will be recognized by the Church.

The Invalidity or Nullity of Marriage

The word “annulment” does not exist in canon law, and generally canonists avoid it.

The term refers to a determination by a civil court that a marriage was “void” because it did not meet the requirements of civil law (i.e., was not civilly lawful). It can also refer to a civil determination to annul a “voidable” marriage, one which was subject to cancellation only if contested by one of the parties. These contrast with divorce, a determination by a civil court that dissolves a civilly lawful marriage. None of these civil actions create a freedom to marry in the Catholic Church.

For clarity of distinction, it is preferable to speak of “invalidity” or “nullity” as the code does.

What a canonical process by a Catholic Tribunal or bishop seeks to determine is whether or not a marriage under investigation came into being according to **divine and ecclesiastical law from the very beginning**. For a Tribunal or bishop to judge a marriage to be “null” or “invalid,” means that it never existed in such a way as to create the rights and obligations binding the couple together for life according to the Catholic doctrine of marriage. This is a religious judgement that does not touch upon the reality of its civil recognition or alter any of its effects or consequences in civil law.

Confidentiality

It is the policy of the Tribunal to disclose information about a case, or its status, only to those duly authorized ecclesiastical officials or other ecclesiastical tribunals who are directly involved in its resolution. The Tribunal observes this confidentiality because of the sensitive nature of the information it receives and because it wishes to promote a spirit of charity and equality. In fact, judges, other ministers of the Tribunal, and assistants, are bound to keep the secrecy of office by the law (cf. DC article 73 §1; c. 1455 §1).

Any information about the contents of a case can be made accessible only when Church Law requires that it be available for inspection by the petitioner, the respondent, their duly appointed procurators-advocates or advocate, and the officers of the tribunal. Therefore, the Tribunal may give information about a case or its status only to the petitioner, the respondent, and to their duly appointed procurators and advocates. **Without a mandate as procurator or advocate, clergy and church ministers, civil spouses, intended spouses, and other relatives cannot have access to this information.**

Because this is a Church Tribunal, the acts assembled in a case are never to be used in any proceeding of civil law.

Who helps the parties to present a case to the Tribunal?

The parties in a marriage case have the right to freely name a procurator and an advocate according to the law (see cc. 1481-1488 and DC articles 101-122). Both the procurators-advocates or advocate must have reached the age of majority and possess a good reputation. Both are obliged to maintain the “secret of office” (i.e. confidentiality) and act diligently and competently on behalf of the proper interest of the party.

The procurator (or proxy) places procedural acts on behalf of the party. The procurator presents the petition to the tribunal, receives its notifications, and informs the party of the status of the case. The procurator is bound to protect the rights of the party. Therefore, it is necessary that the procurator know and understand procedural law as it applies to marriage cases.

The advocate safeguards the rights of the party, provides counsel, and presents the law and the facts that support the position of the party. The advocate must be a Catholic, unless the diocesan bishop allows otherwise, and at least, truly expert in canon law. Further, the advocate must be approved by that bishop.

One person may serve in both roles. The two parties in a marriage case may appoint one procurator to serve them both. This may be especially helpful in the Process before the Bishop.

The Tribunal provides orientation and training for those who wish to serve as procurators-advocates or advocates with its approval, and it maintains a list of these trained and approved personnel. For a grave cause, the judge may remove a procurator or an advocate in a case. The bishop may even prohibit a person from acting as a procurator or advocate in his tribunal. Under certain conditions, a judge may appoint a procurator for a party who lacks one. (These conditions are different from those by which he may appoint a curator. See later in this section under Important Notes Regarding the Rights of the Respondent.)

Before a person may serve as a procurator or an advocate, the party must normally present a written mandate of appointment, and the person must accept this mandate.

What Is the responsibility of the person submitting the case?

The Tribunal staff expects the person submitting any case to gather all of the necessary information, documents and testimony required to process a case. If this person is unsure of all the necessary forms he/she should contact the Tribunal prior to submitting any case documents. Case documents are to be sent to the Tribunal in their entirety.

The law presumes that a person continues to serve as procurators-advocates or advocate unless another person is given the mandate. If a person will no longer serve as a procurators-advocates or advocate for any reason, he or she is to notify the party so that another person may be appointed to this office and given the files.

How are files maintained?

The procurators-advocates or advocate should keep a file of every marriage case that he or she presents until it is completed. This file should contain a brief summary of the facts of the case, a copy of everything sent to the tribunal, and all correspondence received from the tribunal.

Who should have a marriage case presented to the Tribunal?

Each and every marriage not ending in death or an ecclesiastical decree declaring the person free for future marriage must be presented as a Tribunal case.

Any person, regardless of religious denomination or baptismal status, is entitled to present a case to the Tribunal. This should ordinarily be done through the parish priest or another trained and authorized parochial minister.

Those who submit marriage cases are cautioned against prejudging a case on the basis that it does not look like a possible case to them. Every person has the right to a judgment by the Tribunal, or the bishop, on the merits of the case.

Pastoral considerations in remarriages

All previous marriages not dissolved by death must be resolved by a canonical procedure and according to diocesan policy. This applies to non-Catholics as well as Catholics. This applies to both sacramental and non-sacramental marriages. These principles of the canons below should guide pastoral action whenever a second marriage is sought.

If the marriage is invalid or dissolved for any reason, it is not permitted (*non licet*) to contract another marriage before the invalidity or dissolution of the prior marriage had been legitimately and certainly established (c. 1085).

Before marriage is celebrated, it must be evident that nothing stands in the way of its valid and licit celebration (c. 1066).

When two non-Catholics, who are validly married to each other, enter the Church by baptism or a profession of faith, there is no need to seek a declaration of its invalidity or to attempt to celebrate that marriage again in the Church.

Multiple marriage situations

Always check for any prior marriages of the parties in preparing a case. Then proceed with the party's first marriage and classify any and all subsequent marriages. When there is a complex marital history, the wisest course of action is to consult the tribunal.

If one person has two or more cases, PLEASE submit them at the same time. The Tribunal will attempt to "synchronize" their progress. Similarly, PLEASE submit cases for two parties who wish to marry each other at the same time.

Catechumens and candidates

Before someone may be initiated into the Church or received into full communion in the Catholic Church, it is essential that the person be canonically free to be married to the person with whom he or she is currently living in a civilly recognized marriage. This includes a catechumen or candidate who is civilly married to a person who has a prior marriage to a person who is still living.

Such candidates may not be received into the Church until all necessary declarations of invalidity or dissolution of the prior bond for either party have been granted. Such candidates should not be led to believe that they will be received into the Church on a specific date, unless the necessary declarations of freedom to marry have been granted by the tribunal.

Eastern Catholic and Eastern non-Catholic

In marriages which involve members of an Eastern Catholic Church or members of an Eastern Non-Catholic Church (Orthodox, Oriental, Church of Assyria), please consult the tribunal before proceeding.

For further details, consult *Christ Is All and In All: a Directory on Pastoral, Sacramental, and Canonical Issues in Our Relationship with the Eastern Churches* (August 2010); available from the Faith Catholic Store.

Challenging a marriage in which a proxy or interpreter was used

In these cases, please consult the Tribunal before proceeding.

Sending cases and correspondence

Please send all cases and correspondence, referencing the case names and number, to:

Diocese of Kalamazoo
Diocesan Tribunal
215 N. Westnedge Avenue
Kalamazoo MI 49007-3760

Records of baptism, marriage and divorce

Every case requires the recent and complete official baptismal record of any Catholic party and issued within the last **six** months, as well as both official and complete civil marriage and divorce records. Missing records must be explained in writing.

Documents that are needed to submit a case

1. An authentic and recent baptismal record with all annotations of any Catholic party or parties, issued within the last six months. Send the original as received and not a copy of it. This document must be issued by the parish of baptism, or the parish where the person was received into the Catholic Church or the place of archives.

Personal photocopies are not sufficient. Instead, this document must be signed by the pastor (or archivist) and must bear a parish or diocesan seal. You may obtain it and then send it to us. The complete mailing address of this parish or place of archive is also needed on the certificate that is issued.

This document will contain a section for matrimony with note of any marriages, dispensations and decrees of invalidity or dissolution. It will have other sections for first communion, confirmation, ordination, and religious profession. If any section is empty, the person who issues the record must cross it out and/or write "no notations." Otherwise, that information must be noted on the document.

If neither party was Catholic but at least one was a member of an Eastern non-Catholic Church (i.e. Orthodox Church, Orthodox Oriental Church, or the Assyrian Church of the East), provide the Eastern non-Catholic baptismal certificate.

If a reliable record of a non-Catholic baptism is available, it may be copied and sent with a note.

M-B Form is used to testify to the baptism of a non-Catholic party when it is necessary to do so. A copy can be provided by the procurator and advocate from the supplies of the parish office. It is not used in the case of a Catholic baptism.

2. An authentic copy of the civil marriage record. This can usually be obtained from the county in which the license was issued. It will be signed by a government official and will bear a seal or watermark. Do not send the church or souvenir certificates or other material, such as videos or booklets, unless instructed to do so.

If a petitioner who presents a case (except for a total lack of form case) has remarried, also include a copy of the marriage certificate for all subsequent marriages including the present marriage.

3. An authentic copy of all pages of the final civil divorce decree. This can usually be obtained from the county in which the divorce was granted. It will contain the date and place of the final judgment of divorce, as well as information concerning the number of children, their custody, and support requirements. Provide all pages, not only the first and last.

The procurators-advocates or advocate may make a true copy from an original or authentic civil record of marriage and divorce. The procurator and advocate would then place a note on it to read, "**This is a true copy of the original (or authentic) copy seen by (name and signature of procurator and advocate) on (date).**" This permits the petitioner to keep any original marriage record, divorce decree or other special document (e.g. original non-Catholic baptismal certificate). If extenuating circumstances exist, please contact the tribunal.

Copies of Michigan records since 1867 may be obtained from the county clerk in the county where the event occurred. Information is available from the Michigan Department of Community Health website <http://www.michigan.gov/mdch> (as of October 1, 2015). Information on acquiring records from other states and foreign countries is contained in "Where to Write for Vital Records" from the National Center for Health Statistics at: <http://www.cdc.gov/nchs/w2w.htm> (as of October 1, 2015).

Fees for obtaining records vary, and they are the responsibility of the petitioner.

Determining if the former spouse is still living

Some websites permit searches of the *Social Security Death Index*, and numerous obituary websites exist. Some require payment for search or download, and some do not.

What if something vital is missing or cannot be obtained?

No case should be held up merely because a document or person cannot be located or a particular party will not cooperate. There may be other ways to obtain the equivalent of the missing information. The case should be submitted anyway, with the information that is known and an explanation of why the document(s) cannot be included.

If the location of the respondent is unknown, the **Whereabouts of Respondent** must be completed and submitted. See it for more details.

Important notes regarding the rights of the Respondent

The Tribunal is required by Canon Law to contact the Respondent (former spouse).

Only for a grave cause can the tribunal not contact the respondent in a case. Except for the Total Lack of Canonical Form case, the respondent has the same rights to participate in a case as the petitioner and has a right to be notified of the process being started at the tribunal by the petitioner and offered the chance to participate. This is why it is important to show that every effort has been tried to locate the respondent, unless serious circumstances dictate otherwise. Any personal protection orders or police reports need to be submitted with the case.

The appointment of a Curator for the Respondent

If the respondent is not able to represent himself or herself in the canonical process due to mental incapacity, imprisonment, or another grave cause (e.g. violence towards petitioner/children), a curator can be appointed by the judge to represent the rights of the respondent in a case.

Respondent consent In the Process Before the Bishop

The signed consent of the respondent is one of two essential requirements for using the Process before the Bishop. The respondent must be able to view a copy of the petitioner's application (libellus) and sign the statement of consent before a notary. The other essential requirement is that there be a clear manifestation of nullity.

Therefore, the Process before the Bishop cannot be used when the respondent cannot be located, or a curator must be appointed.

How are cases named or filed by the Tribunal?

Cases are filed according to the birth or maiden last names of the parties and given a case number. They are not filed under the petitioner's present married name or under the name of the prospective Catholic spouse.

How can you find out about the progress of a case?

The parties themselves or their procurators-advocates or advocate must make any requests for information on a case. These are best done in written form, but phone inquiries are acceptable. Please refer to the case number, if it is known. Otherwise, a case may be located by giving the name of the petitioner (maiden name if petitioner is a woman), the name of the respondent (maiden name if the respondent is a woman), and the approximate date the case was first submitted.