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## MARRIAGE

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The Catholic Church teaches that marriage between the baptized has been raised by Christ the Lord to the dignity of a sacrament. By doing so, He enhanced the dignity of an institution already made holy in God's creation. Marriage is an enduring and exclusive partnership in which husband and wife establish a loving and life-giving relationship. This natural sacred relationship becomes a Sacrament if both parties are baptized.

Because the institution of marriage is of divine creation, the Church's teachings concerning the dignity of marriage apply to all marriages, not just the marriages of Catholics.

For this reason the Catholic Church views civil divorce very seriously -a last resort to safeguard rights under civil law. The Church does not accept that divorce can dissolve the actual bond of a valid marriage. Church law, in fact, presumes that a marriage is valid once it is entered, a presumption which remains in force unless and until the contrary is proven.

While a marriage relationship which exists between the parties and has certain significance, due to circumstances, intentions, and/or capacities on the part of one or both parties, it might not necessarily have been the type of marriage bond which could be broken only by the death of one of the parties.

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## THE NATURE OF AN ECCLESIASTICAL DECLARATION OF NULLITY

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The purpose of the nullity process is to determine whether or not an indissoluble marriage bond was established when the parties entered their marriage. It must be proven clearly and with certitude that this enduring bond was **not** established in order for a marriage to be declared null. This proof must focus on grounds of nullity recognized by Church law and applying to the marriage in question from its very beginning. Examples of such grounds are grave immaturity, psychological factors which seriously impeded the freedom of the party(ies), or having intentions contrary to marriage such as excluding children, permanence, or fidelity. There are other grounds as well. In all instances, they focus on the time the marriage was entered.

The nullity process is conducted by the Tribunal. The Tribunal is the Ecclesiastical Court of the Diocese of Raleigh and functions under the guidelines established by the Code of Canon Law, the universal law of the Catholic Church.

A declaration of nullity by the Church has no civil effect in the United States. It does not deny the reality of the relationship that existed. It concludes that at least one of those elements considered by the Church as essential for a lasting, indissoluble union was missing. It does not, therefore, affect rights in regard to such matters as property, inheritance, visitation of children and the like. It has no effect on the legitimacy or rights of any children born of the union, either in civil law or Church law. There is no attempt in the proceeding to cast doubt on the good faith of either party in entering the marriage, or to affix guilt or blame for the breakup of the union.

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## THE PETITIONER

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To begin the process, a person contacts the Tribunal. In order for a petition to be accepted for investigation, the Petitioner must indicate that there was present from the beginning of the marriage some basis on which it might have been null, and show that there is some reasonable hope of being able to prove this contention.

At the time of the initial interview, the following documents are to be brought: a recently issued Certificate of Baptism if the Petitioner is Catholic; Marriage License/Certificate; and Civil Divorce Decree.

During the initial interview, the process is explained in greater detail and instructions, as well as a detailed narrative to be completed, are given to the Petitioner. The Petitioner is to submit a list of prospective witnesses who can testify about the alleged ground of nullity with the completed narrative. The Petitioner has a right to be represented by an Advocate in the proceeding and is given an opportunity to appoint a member of the Tribunal staff to fill this role.

Ordinarily, the Petitioner meets with Tribunal staff only at the beginning of the case. However, additional meetings may be arranged depending on the circumstances of the case.

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## THE RESPONDENT

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The Tribunal will contact the former spouse (called the "Respondent"), who, by law, has a right to be heard. The Respondent has a right to be represented by an Advocate in the proceeding and is given an opportunity to appoint a member of the Tribunal staff to fill this role.

The importance of the Respondent's cooperation varies from case to case. The Respondent is given a set period of time to reply. The Respondent's participation in the process, while highly desirable, is not always essential. In the event of non-cooperation, the case can proceed, recognizing that the grounds alleged in the case must still be proven.

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## WITNESSES

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It is the Petitioner's responsibility to ensure that the witnesses cooperate. The Petitioner is expected to inform the witnesses of the situation, indicate that they will be contacted by the Tribunal, and request their prompt cooperation.

Each witness is sent an affidavit and a cover letter explaining how to proceed. Witnesses are encouraged to be as honest and complete as possible in their answers. The testimony is given under oath, and witnesses have the option of signing the completed affidavit either before a Pastoral Minister or in the presence of a Notary Public.

A witness is offered the option of invoking confidentiality. However, if the witness requests the information provided is to be confidential, it will not be considered.

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## PROCESSING TIME

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The length of time involved varies from case to case and depends on many factors, some of which may be beyond the control of the Tribunal. At the time of the interview, the Petitioner will be informed of the average length of time required to process the case. It is also made clear that this is just an average and not a guarantee that the case will be completed in that time or that the final decision will be favorable.

Due to the circumstances of a case, a Prohibition may be placed on one or both of the parties. A Prohibition restricts the party or parties from having a subsequent marriage recognized by the Church until such time as those circumstances which contributed to the nullity of the first marriage (e.g., immaturity or alcoholism) are either no longer present or under control. In this way, the problems that were evident in the first marriage may not be carried into the new one. Once a Prohibition is lifted, a new marriage may be entered. Therefore, a Prohibition should be seen as a safeguard both to help the party or parties come to recognize problems and to protect the integrity of the new marriage. It should not be seen as a penalty.

For these reasons, the parties should not make arrangements for a possible future marriage until the entire process is completed. It is the policy of the Diocese of Raleigh that a wedding date not be set until the entire process is completed. If, however, a date has been set, no commitment will ever be given by the Tribunal to complete a case by a specific date

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## FEES

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There is no fee for a declaration of nullity.

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## FOR INFORMATION

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Call or write:

**Tribunal-Diocese of Raleigh**  
7200 Stonehenge Drive  
Raleigh, North Carolina 27613

*Telephone: (919) 821-9754*

[www.dioceseofraleigh.org/offices/tribunal](http://www.dioceseofraleigh.org/offices/tribunal)

(10/15)

# FREEDOM TO REMARRY PROCEDURES IN THE DIOCESE OF RALEIGH