

**DECLARATION
OF
MATRIMONIAL NULLITY**



**THE DIOCESE OF YAKIMA
TRIBUNAL
OFFICE OF CANONICAL CONCERNS**

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What is a Tribunal?

The Tribunal is the name given to Church courts. The tribunal, or court, renders judgments at the request of, and on the behalf of, those seeking justice. The Tribunal's concern is with the spiritual or sacramental aspect of the marriage.

What is a Marriage?

The Catholic Church understands marriage to be an enduring and exclusive partnership for the giving and receiving of mutual support and love and the procreation and education of children. For those who have been baptized, a valid marriage is, at the same time, the sacrament of matrimony; for the un-baptized, marriage is binding according to the natural law.

What is a Declaration of Nullity?

The Tribunal process is an impartial search for the truth. A Declaration of Nullity is declared after long and serious study that at least one of the elements, seen as essential for a binding marriage, was not present in a particular relationship at the time of consent.

The Tribunal seeks to establish:

- At the time of consent was the marriage freely contracted?
- Did both parties intend it to be a faithful, permanent and fruitful union, for the good of the spouse and the good of children?
- Were both parties psychologically healthy and capable of establishing and living out a life-long marital bond? It implies no moral judgment one way or another about either of the parties.

The Tribunal's impartial search for truth can lead to both affirmative and negative decisions. A decision rendered in truth should ultimately enhance the spiritual well being of a person.

How to Submit a Case

A case is usually submitted by the Parish Priest or Advocate of that Parish. It can also be called directly to The Office of Canonical Concerns – the Tribunal. The General Information Application form is filled out by the person introducing the case.

Information given on the form determines the type of case to be processed. The Tribunal then contacts the Petitioner in order to initiate the case and appropriate forms will be sent to you to begin your case. You will be asked to provide a copy of the Marriage Certificate, a copy of the Divorce Decree, and if either Party is a baptized Catholic you may also be asked to provide a Baptismal Certificate.

Who are the Parties to the Case?

Either spouse has the right to petition the Church for a declaration of nullity. The Petitioner is the spouse who "initiates" the case before the court. The Respondent is the other spouse to the

marriage. The process is thorough and just, and respects the procedural rights of all parties involved. The Respondent is invited to participate in the process. If he or she does not wish to cooperate, the Tribunal proceeds toward making a decision on the basis of the information available. If the Respondent cannot be located a Guardian will be appointed and the Tribunal will proceed with the process. It is necessary to mention that you should exhaust all possible means to locate you former spouse.

The Tribunal study is not an adversary procedure with one spouse against the other. Instead, the Tribunal seeks to weigh marriage against the law of the Catholic Church as it defines the sacramental nature of marriage.

The Rights of the Respondent

The Respondent must be contacted (“cited”) to help make a just decision. The Respondent has certain rights which include:

- the right to be cited and notified of judicial acts;
- the right of defense;
- the right to be consulted by one’s own Judicial Vicar;
- the right to a standing in court (or to have a Guardian appointed);
- the right to know the grounds for nullity;
- the right to have an appointed advocate;
- the right to nominate witnesses;
- the right to know the names of the witnesses presented by the Petitioner;
- the right to raise objections against witnesses, experts, the judge, the defender of the bond, or any other officer of the court; and
- the right to inspect the Acts of the case.

Witnesses

Marriage is never a totally private relationship. Both the Petitioner and the Respondent can supply the court with witnesses. Witnesses should be those who knew the Petitioner and Respondent at the time of consent. Witnesses bring a measure of objectivity and insight to the marriage study by offering an outside view of the relationship and are one source of proof to the court regarding the case.

Does a Declaration of Nullity have Civil effect?

No, all civil effects are settled in civil courts.

Does a Declaration of Nullity have effect on the legitimacy of any children?

At the time of birth, the legally presumed relationship between the child’s father and mother was indeed that of husband and wife. A declaration of nullity does not deny this, so the legitimacy of the child cannot be affected. Children born of a marriage that has been declared null remain legitimate. The Church considers children to be a gift from God. Therefore, civil courts determine civil legitimacy.

How long does the process take?

Each case is different because there are different types of cases. However, the Formal Case is the lengthiest case and the Tribunal's average time to process a formal case is 18 to 24 months. Nevertheless, this is not a guarantee. For this reason, no plans for a future marriage can be made until the case reaches an affirmative decision. The Tribunal is not responsible for any setbacks if this notice is not respected.

Is a Declaration of Nullity always granted?

No. It is important for the divorced individual to know that the Church affords them the legal right to petition for a declaration of nullity. No one has a right to a declaration of nullity; rather, the right exists to petition for one.

Can both parties remarry if a Declaration of Nullity is granted?

Yes, they can remarry if a declaration of nullity is granted. In some cases there may be conditions one or both of the parties must fulfill prior to marriage to be sure that the same factors, that caused the nullity of the previous marriage, are no longer present.

Are there fees for a Declaration of Nullity?

Yes. This too depends on the type of case that is processed for you. However, all applications must come with a \$50 application processing fee. Since only a part of our operating budget is subsidized by the Diocese, it is necessary that we pass part of the financial burden on to the recipients of our services. We do not wish to create a financial hardship for anyone, but we find we must ask parties availing themselves of the process to help us meet our expenses. We feel this reflects your good faith intentions and allows us to assist other individuals in need of our services. Full or partial waivers of the fees are also considered when this becomes a financial burden. If this is your situation, a written request explaining your financial distress is required.

Can a divorced person receive communion?

There is nothing in itself that prevents a divorced Catholic from receiving the Eucharist and sacrament of Penance as long as they are not cohabitating with someone.

Does that mean a divorced and remarried Catholic can receive communion too?

No. Although not excommunicated, a Catholic who remarries without a declaration of nullity may not receive Communion for they are living in an immoral relationship.

Why should I go through the Declaration of Nullity process?

There are many reasons. First of all, every Catholic has a right to know their canonical status in the Church. Secondly, the process can be a profoundly healing experience – healing within yourself, healing within the Church, with significant others in your life and above all with the

Lord. It also affords a person the opportunities to reflect on former marriages so they do not make the same mistakes in a future marriage.

How can the Church undo what God has joined together?

We presume all marriages are valid, but through the investigation process of a marriage, we may discover that what appears to be “bound by God” was in fact a marriage that was not joined by God because the persons may not have had the capacity to live out or understand the obligations or responsibilities of marriage or understand what marriage entailed. When this is discovered, by the evidence gathered, then the presumption of a valid marriage is declared null.

Christ gave Peter, our first Pope and through him to the Church, this authority when He said:

“Full authority has been given to me by my Father both in heaven and on earth...I will entrust to you the keys of the Kingdom of Heaven. Whatever you declare bound on earth shall be bound in heaven; whatever you declare loosed on earth shall be loosed in heaven.” (Matt. 16:19)

By giving this authority to the Church, Christ entrusted the Church with the power to open and close, to “*bind and to loose*,” to allow and forbid, so that it could help guide the followers of Christ. In investigating a marriage, we use this authority of Christ given to the Church. But, we use this authority with much hesitancy and with much care for it affects the lives of people and it should be used for the salvation of souls.