



## The TRIBUNAL DIOCESE OF CLEVELAND

### LACK OF CANONICAL FORM

#### **Freedom to marry**

A person who desires to marry in the Catholic Church, and who has been married previously, must be shown to be free of that former marriage. All marriages, including those between persons who are not Catholic, are presumed to be valid, unless shown otherwise. If the former spouse is still living, a declaration of the nullity of the previous marriage must be sought. There must be a separate declaration of nullity for **each** previous marriage before a person is free to enter another marriage in the Catholic Church. It is the responsibility of the Tribunal to make such a determination.

#### **Canonical Form**

The law of the Church specifies that a baptized Catholic or a person who has made a profession of faith in the Roman Catholic Church must contract marriage in the presence of a properly delegated priest or deacon and two witnesses. (It is possible for the Bishop to dispense a Catholic from canonical form.) When the Catholic form of marriage is lacking entirely or defective (e.g., civil, lacks delegations, one witness), the marriage is invalid. The most common reason for the nullity of a marriage involving a Catholic is lack of canonical form, that is, the failure to marry in the presence of a priest or deacon, using the Catholic form of marriage.

#### **Who is subject to this law?**

Anyone who has been baptized in the Roman Catholic Church or has made a profession of faith in the Catholic Church is obligated to follow this law. A person baptized in the Polish National Catholic Church is obligated to follow the form of marriage as celebrated in the Polish National Catholic Church. An Eastern Orthodox person must follow the Orthodox form of marriage which requires the blessing of a priest for validity.

#### **Who is not subject to this law?**

This law does not oblige a non-Catholic. Those marriages in which neither party was Catholic are presumed to be valid unless shown otherwise.

#### **How to submit a petition**

When one of the parties to a previous marriage was a Catholic and the marriage was not celebrated by a Catholic priest or deacon, a declaration of nullity may be sought on the ground of lack of canonical form. The party seeking a declaration of nullity must submit a petition to the Tribunal, requesting that the marriage be declared null because it lacked or was defective in

canonical form. This is done with the assistance of a priest or a pastoral minister, using the petition form provided by the Tribunal. The invalidity of the marriage can be established by specific documents which must be submitted in **every** case:

1. A **recent** copy (must be dated within six months) of the baptismal certificate of the Catholic party. (This may be obtained from the church of baptism.)
2. A **certified copy of the civil marriage record**. (A certified copy can be obtained from the county courthouse where the marriage license was issued.)
3. A **certified copy of the divorce decree**, showing the case number, finalized date, judge's signature, and indicate that the divorce is final. (This may be obtained from the county courthouse where the divorce was granted.)

*In accordance with c.1544, photocopies of the certified documents are **not** acceptable. All documents submitted will be returned.*

#### **Is there any cost?**

Effective 05-30-14, Bishop Lennon, Bishop of Cleveland, has eliminated all fees associated with pursuing a Declaration of Invalidity in the Diocese of Cleveland Tribunal.

#### **Is the former spouse notified?**

The former spouse is not notified.

#### **Other grounds for nullity**

The procedure for obtaining a declaration of nullity, by Catholics who married according to Church law or by persons not bound to the Catholic form of marriage is explained in a separate brochure that is available from the Tribunal.

*IF YOU HAVE ANY FURTHER QUESTIONS, YOU ARE WELCOME TO CONTACT THIS OFFICE.*

#### **The Tribunal**

#### **Diocese of Cleveland**

1404 East Ninth Street, Seventh Floor  
Cleveland, Ohio 44114

8:30am-4:30pm, Monday-Friday  
(216) 696-6525, ext. 4000

(Ohio only) 1-800-869-6525, ext. 4000

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