

Diocese of Kalamazoo
FAQ's about the Tribunal's Processes

1. What is the marriage nullity process?

The marriage nullity process is the Catholic Church examination of a marriage that has civilly ended in order to determine if the marriage was invalid due to a defect of consent at the time of the exchange of vows. This examination is accomplished through the participation of parties and witnesses in a procedure established in canon law, the law of the Church.

2. Why has Pope Francis adapted the marriage nullity process?

The salvation of souls has always been the supreme law of the Church. And so all its institutes "ought to incline towards the goal of communicating divine grace and ought to continually favor, according to the gifts and mission of each, the good of the faithful inasmuch as this is the essential goal of the Church." With this in mind, Pope Francis decided to change the nullity process.

3. When will the changes to the marriage nullity process take effect?

The changes begin December 8, 2015, which is the Feast of the Immaculate Conception, and the opening of the Year of Mercy. All cases which have received an affirmative decision in our Diocese by that date will be impacted.

4. How is the nullity process going to change?

There are three major changes that will affect the processing of a case – who can handle cases; the requirement of a second review; and a new streamlined process for some cases.

5. What is tribunal competence, and what has changed in the marriage nullity process?

Competence is the ability, by canon law, for a specific tribunal to process a nullity case. The law has been simplified so that a tribunal can hear a case when one of the following is true:

- a. The marriage took place in that diocese
- b. Either of the spouses in the case lives in the diocese
- c. Most of the evidence (i.e., witnesses) is located in the diocese

6. What is the new law regarding an appeal of an affirmative decision?

The revised law says that if neither party to the case or the Defender of the Bond of Marriage appeals an affirmative decision within 15 working days (not counting weekends or holidays) the case is considered complete. Previously, a second review was always required which would take a few months.

7. How long does the current process normally take?

Every marriage case is as unique as the participants themselves. Questioning the parties, gathering information from witnesses, collecting documents, and applying the procedural steps of the process takes time. In the Diocese of Kalamazoo, we say that a case with few complications can be decided within a year from the time the case is accepted at the Tribunal. However, this is only an estimate.

8. What is the new shorter process, and what are the qualifications for its use?

Certain procedural steps were changed or eliminated. Three strict qualifications apply:

- a. Both spouses must consent by signature to the process.
- b. The facts supporting the case must be obvious according to the marriage law of the Church.
- c. All the facts that support the nullity of the marriage such as documents and the testimony of parties and witnesses must be readily accessible and available. Even with this, the time necessary will vary from case to case. Once collected, all the material is submitted to the Bishop for a decision.

9. Why is it important for both spouses to consent to the shorter process?

This requirement helps protect the right of both spouses to defend the validity of their marriage. However, just both spouses believe that the marriage is invalid does not mean that a declaration of nullity is automatic or guaranteed. This is not true, and has never been true. The facts of the case, and not the spouses' agreement or disagreement on the matter, determine whether the marriage has been proven invalid.

10. How does the shorter process work?

First, the parties (or one of them with the consent of the other) submit an application for a declaration of nullity, which in addition to all the information normally contained in a petition, proposes why the marriage is null, and *what* evidence supports that. There is no guarantee that a case will qualify for the shorter process.

If the case is admitted to the shorter process, the Tribunal issues a decree stating the possible reasons for nullity that will be investigated, and names a Tribunal official to gather the evidence and an assessor (another official who advises the Bishop). The parties provide additional information regarding the marriage and information is gathered from witnesses. Then Defender of the Bond and the parties have fifteen days to present further information. After this, the case is presented to the Bishop for judgment.

If the Bishop has moral certitude that the marriage is invalid, he will issue a decision declaring the nullity of the marriage. If he is not morally certain, the case reverts to the Formal process. The parties and the Defender of the Bond have fifteen days to appeal the Bishop's affirmative decision.

Please remember that in this process, like the ordinary process, there is no guarantee of an affirmative decision. Therefore a wedding in the Catholic Church should NOT be scheduled, even tentatively, until an affirmative decision, free from restriction, is issued.

11. How long does the shorter process take?

A number of news outlets reported that the shorter process will take 45 days. –This number is inaccurate. The legal time-requirements for the process are actually closer to four months, without the possibility of delays such as witnesses not responding. No matter how strong the case, nobody should expect to get a declaration of nullity in 45 days.

12. What is the Tribunal's approach to fees?

Pope Francis didn't eliminate tribunal fees, but he said that the process should be without cost whenever that can be done without harming the right of tribunal workers to a just wage. He has two reasons for this. First, he wants to make sure that nobody is ever discouraged from exercising his or her rights due to cost. Second, he wants to be sure that tribunals are freed from the misconception that declarations of nullity can be "bought" or "sold." Here in the Diocese of Kalamazoo, the parties were not assessed a fee – the parishes were asked to pay a portion of the expense for providing a Tribunal. No one is ever denied the right to engage the Tribunal because they lack funds

13. When and how is the new law going to be implemented in the Diocese of Kalamazoo?

The law comes into effect on December 8, 2015. In the coming weeks, the decisions of some cases will be postponed until December 8 so the case is not obliged to go through an appeal process. The tribunal is doing its best to implement the new procedures as soon as possible. There are many adjustments to be made. In the meantime, our cases continue to progress at their normal speed.

Feel free to call or email the tribunal (269.903.0189) with general questions or questions about a specific case and we will respond as quickly as possible. At the same time, we ask for your patience. If there is a case pending or submitted in which the new law will have an impact, we will strive to do whatever is best for the parties.