

Pastoral Instruction and Policy on Marriage



Guide to Theology, Canon Law,
and Diocesan Policy

2023

Office of Canonical Services & the Tribunal
Diocese of Phoenix



THE ROMAN CATHOLIC DIOCESE OF PHOENIX

DECREE

In accord with canons 8, 29, and 34 of the Code of Canon Law, I hereby promulgate the Pastoral Instruction and Policy on Marriage.

This edition of the Pastoral Instruction and Policy on Marriage revokes all previous versions and takes force immediately.

Given at the Diocesan Pastoral Center, Phoenix, Arizona, on this 1st Day of May in the year of Our Lord 2023.

Handwritten signature of John P. Dolan in black ink.

+John P. Dolan
Bishop of Phoenix

Handwritten signature of Maria R. Chavira in black ink.

Maria R. Chavira, Ph.D.
Chancellor



ENCOUNTERING THE LIVING CHRIST

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Abbreviations:

CIC = Code of Canon Law

CCC = Catechism of the Catholic Church

I.

Introduction

The purpose of the Pastoral Instruction and Policy on Marriage is to outline the universal law, the diocesan policy, and the theology regarding the sacrament of marriage. This document is both a policy and an instruction, therefore its aim is to communicate the requirements of the Diocese of Phoenix and to provide instruction on the laws and teachings of the Church on marriage. Given the contemporary pastoral situation and the state of marriage in our society, it is imperative that we assist those preparing for marriage with solid catechesis and formation, and that we provide the truth about the teachings of the Church on divorce and annulments. Through sound teaching and pastoral guidance, we all can work towards the salvation of souls.

The sources for the information contained in this Pastoral Instruction and Policy on Marriage are the Catechism of the Catholic Church, the Code of Canon Law, documents of the Second Vatican Council, and other official pronouncements of the Apostolic See. From the teachings and laws of the Church are developed the specific policies and procedures regarding marriage for the faithful of this diocese. Furthermore, it is important to be aware that this Pastoral Instruction and Policy on Marriage goes hand in hand with the list of faculties in the *Pagellae* as well as the Diocesan Marriage Preparation Policy.

Any questions about the Pastoral Instruction and Policy on Marriage should be directed to the Office of Canonical Services & the Tribunal.



II. What is Marriage?

Pope Francis, in his Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the 2023 Judicial Year, said this about marriage:

We might ask ourselves: how is it possible for there to be such a captivating union between a man and a woman, a union that is faithful and everlasting, from which a new family is born? How is this possible, taking into account the limits and fragility of human beings? It is worthwhile to ask ourselves these questions and to allow ourselves to wonder at the reality of marriage. Jesus gives us a simple yet at the same time profound answer: ‘What God has joined together, let not man put asunder’ (Mt 19:6). ‘God himself is the author of matrimony’, as Vatican Council II affirms (cf. Pastoral Constitution *Gaudium et spes*, 48), and this can be understood as referring to every single conjugal union. Indeed, spouses give life to their union, with free consent, but only the Holy Spirit has the power to make a man and woman a sole existence. Moreover, ‘the Savior of men and the Spouse of the Church comes into the lives of married Christians through the sacrament of matrimony’ (ibid., 48). All this leads us to recognize that every true marriage, even non-sacramental, is a gift of God to the spouses. Matrimony is always a gift! Conjugal fidelity rests on divine fidelity; conjugal fruitfulness is based on divine fruitfulness. Man and woman are called to accept this gift and freely correspond to it with the reciprocal gift of self.

The Code of Canon Law states: “The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptized” (CIC, 1055 §1). It further indicates that the essential elements of marriage are unity and indissolubility (CIC, 1056).

This understanding of marriage is foundational and applies to all marriages, whether it is a marriage in the Catholic Church between two Catholics, or a ceremony between two unbaptized people before a justice of the peace. This is because marriage is rooted in human nature. In fact, the Catechism of the Catholic Church states, “The intimate community of life and love which constitutes the married state has been established by the Creator and endowed by him with its own proper laws.... God himself is the author of marriage. The vocation to marriage is written in the very nature of man and woman as they came from the hand of the Creator. Marriage is not a purely human institution despite the many variations it may have undergone through the centuries in different cultures, social structures, and spiritual attitudes” (CCC, 1603).

Canon 1057 of the Code states, “§1. The consent of the parties, legitimately manifested between persons qualified by law, makes marriage; no human power is able to supply this consent. §2. Matrimonial consent is an act of the will by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage.” Therefore, the ministers of the Sacrament of Matrimony are the man and the woman, and not the cleric. The cleric is the official witness for the Church and asks for and receives the consent of the couple in the name of the Church. Therefore, it is the consent of the parties, in freedom and knowledge, that creates the bond of marriage.



III.

Who Can Marry?

Those who can marry in the Catholic Church are couples who request marriage at an appropriate time, are properly disposed, and are not prohibited by law (cf. *CIC*, 843).

Being properly disposed for marriage means that “persons must possess at least the minimal psychological capacity to establish and nurture an intimate partnership of life, sufficient knowledge of the nature of this partnership, and the intention to undertake it. If these psychological, intellectual, or volitional requirements are lacking, a person’s consent is deficient and fails to give rise to a marriage” (John Beal, *New Commentary on the Code of Canon Law*, 1250).

The Holy Father, Pope Benedict XVI, stated in his 2011 Address to the Roman Rota that, “The right to marry, *ius connubii*, ... is not a subjective claim that pastors must fulfill through a merely formal recognition independent of the effective content of the union. The right to contract marriage presupposes that the person can and intends to celebrate it truly, that is, in the truth of its essence as the Church teaches it. No one can claim the right to a nuptial ceremony. Indeed the *ius connubii* refers to the right to celebrate an authentic marriage.”

Those who are prohibited by canon law from marriage are those with an impediment. Some impediments to marriage can be dispensed, but those of divine or natural law cannot be dispensed. The specific impediments are:

- Insufficient age: the minimum age is 16 for men and 14 for women
- Impotence*
- Prior Bond/*Ligamen***
- Disparity of Cult (one Catholic and one unbaptized party)
- Holy Orders
- Public Perpetual Vow of Chastity in a Religious Institute
- Abduction (a man cannot marry a woman he abducts)

- Crime (when a person conspires to kill his/her spouse in order to be free to marry again)
- Consanguinity (the couple is too closely related by blood)
- Affinity (the couple is too closely related by another's marriage)
- Public Propriety (allowing a particular marriage could cause scandal)
- Adoption (the couple is too closely related due to an adoption)

*In regards to the impediment of impotence, in order to enter validly into marriage, both parties must be able to complete the sexual act (this is NOT sterility, which is the inability to have children). They do not have to do engage in the sexual act (Mary and Joseph), but they have to be capable of completing the act. Incapacity does not mean performing the sexual act is uncomfortable or dangerous for health reasons (heart problems, etc.) but means that in no way, even with the help of medication or other moral medical means, is one or both of the parties capable of performing the sexual act. Should one or both parties be incapable of completing the sexual act, they are prohibited from entering into the Sacrament of Marriage. This is a natural law impediment and cannot be dispensed.

**In regards to the impediment of prior bond, that is, a party who has already contracted marriage with another person (even if they have obtained a civil divorce), the person must have his/her marriage declared invalid through an ecclesiastical annulment process before setting a date for a new marriage or starting marriage preparation.



IV.

Preparing for the Wedding

There are several important things that need to be accomplished before a couple is married in the Catholic Church. This includes the preparation of the couple with catechesis and life skills, but it also ensuring the canonical requirements for a valid and licit ceremony are completed prior to the wedding.

Marriage Preparation Policy: The requirements for marriage preparation for the Diocese of Phoenix are outlined in the marriage preparation policy, *Covenant of Love*.

Marriage preparation in the Diocese of Phoenix is a nine month process and is required for all marriages involving at least one Catholic. It is also required for those Catholics already in a civil union needing to get married in the Catholic Church.

Those bound by this policy are Latin Catholics who live in the territory of the Diocese of Phoenix. Regardless of the location of the wedding ceremony, a couple is bound to the marriage preparation policy of the diocese where the Catholic party(ies) lives. For example, if a Catholic couple lives in the territory of the Diocese of Phoenix but will be married in the Archdiocese of Los Angeles, the couple is bound to follow the marriage preparation policy of the Diocese of Phoenix and NOT the policy of the Archdiocese of Los Angeles. Should both parties be Catholic and they live in different dioceses, they can choose either diocesan policy for their marriage preparation.

If a couple from another diocese has scheduled a wedding at one of the churches of the Diocese of Phoenix, the couple is to do the marriage preparation of the diocese in which they live, not the preparation of the Diocese of Phoenix.

Prenuptial Files: It is required that there is a prenuptial file for each couple preparing for marriage.

This file includes:

- certificates for all required courses of the marriage preparation policy
- summary of the couple's FOCCUS/Fully Engaged Inventory
- Prenuptial inquiry (PNI)
- Affidavits of free status
- newly issued baptismal certificates with notations for Catholics
- proof of baptism for baptized non-Catholics
- copy of the couple's civil marriage license
- if applicable, it would also contain:
 - a letter of delegation
 - dispensations or permissions
 - copies of sentences or decrees of nullity
 - death certificates or obituaries
 - anything else required for a valid and licit marriage.

The prenuptial file is the property of the parish where the wedding will take place. The couple may not have access to this file at any time.

Being prepared in one parish and being married in another—what to do with the Prenuptial File:

The prenuptial file is kept at the parish in which the marriage took place. The only exception is a marriage performed with a dispensation from canonical form, in which case, the file is kept at the parish of preparation.

If a couple living in the Diocese of Phoenix is getting married in another diocese, the couple must complete the marriage preparation of the Diocese of Phoenix and the prenuptial file must be sent to the Office of Canonical Services & the Tribunal of the Diocese of Phoenix for transfer to the diocesan offices of the location of the parish that will perform the marriage. This is required so that the parish where the marriage takes place is assured that the couple is free to marry and properly prepared for marriage.

The prenuptial file CANNOT be transferred from parish to parish

when the wedding is taking place outside of the Diocese of Phoenix. In addition, the couple CANNOT hand carry the file to the parish, nor can they have a copy of the file. If the prenuptial file needs to be sent overseas or with special delivery, the shipping costs will be the responsibility of the couple who is getting married.

It is necessary that the Office of Canonical Services & the Tribunal receive prenuptial files for weddings outside the diocese at least **30** days in advance for weddings within the United States, and at least **90** days for weddings outside the United States. For marriages outside the United States, a civil marriage ceremony may be required before the wedding in the Catholic Church. (If the couple is already in a civil union, they will just need to produce a copy of that certificate.) It is the responsibility of the couple to inquire as to the laws of the country in which they will be married so that the civil effects of their marriage are attained. However, please contact the Office of Canonical Services & the Tribunal if you need assistance.

If a couple from another diocese has scheduled a wedding at one of the churches of the Diocese of Phoenix, the parish who prepared them is to send the marriage preparation file to their diocesan offices who will review the file and send it to the Office of Canonical Services & the Tribunal of the Diocese of Phoenix for review. Once they have completed their review, the file will be transferred to the parish where the wedding will take place. Again, a parish in another diocese may not send a marriage preparation file directly to a parish of the Diocese of Phoenix.

For couples preparing for marriage at one parish of the Diocese of Phoenix but getting married in another parish of the Diocese of Phoenix, the file is transferred from the parish of preparation to the parish of marriage. It does not need to be reviewed by the Office of Canonical Services & the Tribunal.

Prenuptial Inquiry (PNI): It is vitally important that the Prenuptial Inquiry is done under oath and with the couple at the beginning of the

marriage preparation process. This document is designed to identify any impediments or other issues that could lead to an invalid or illicit marriage.

Freedom to Marry: Through the PNI, it must be determined if either party has ANY previous marriages, including whether they were civil or religious weddings, involving Catholics or non Catholics.

If a person has received an annulment, ask him/her to provide you with a copy of the sentence or decree. That document must be placed in the prenuptial file. Also, if a person's previous spouse is deceased, a death certificate or obituary must be added to the prenuptial file.

If they have previous marriages and the spouse is still living or an ecclesiastical annulment has not been obtained, the couple must be referred immediately to your parish's nullity minister (see the section on Annulments regarding nullity ministers). Marriage preparation MAY NOT continue, and a wedding date MAY NOT be set. Allowing a couple to participate in marriage preparation when they are not free to marry, may give the couple false hope about their ability to marry in the future. Negative decisions on annulment cases are given, which would mean that either or both parties are not free to marry. Also, the Tribunal cannot give a definite time frame for when a case will be finished.



Permissions & Dispensations: Impediments and possible permissions are discovered through completing the PNI. In the Diocese of Phoenix, all matrimonial dispensations and permissions are ordinarily granted by the judicial vicar. The adjutant judicial vicar, a vicar general, an episcopal vicar for his subjects, and the diocesan bishop also may grant these dispensations. Deans (vicars forane) do not have the authority to grant permissions or dispensations, and any attempt to do so would be invalid.

The following are the possible dispensations or permissions that can be granted:

- **Dispensation for Disparity of Cult:** This is required for the **validity** of the marriage of a Catholic and an UNBAPTIZED person. A Mass is not said in the liturgy for a marriage between a Catholic and an unbaptized person (see *The Order of Celebrating Matrimony Between a Catholic and a Catechumen or a Non-Christian*).
- NOTE: this dispensation is also required for a Catholic to marry non-Catholic parties “baptized” in an ecclesial community that does not perform valid baptisms, i.e. Jehovah’s Witnesses, Church of Jesus Christ of the Latter Day Saints (Mormons), etc. Contact the Office of Canonical Services & the Tribunal if you are not sure about the group in question.
- **Permission for Mixed Marriage:** This is required when a Catholic marries a BAPTIZED non-Catholic. This permission is required for the marriage to be licit (lawful). A marriage between a Catholic and baptized non-Catholic may be performed within the context of a Mass with permission. However, as the *Directory for the Application of Principles and Norms on Ecumenism* states, this type of marriage “ordinarily takes place outside the Eucharistic liturgy” (41).
- **Permission for Marriage Outside an Approved Place:** The Code of Canon Law states in canon 1118 §1 that weddings are normally to be celebrated in a parish church. The diocesan bishop has authority to determine other approved

places for weddings in his diocese. The Diocese of Phoenix may give permission for marriages to be performed in an indoor non-religious facility, i.e., a hotel conference room, for good reason. Please also reference the decree issued on November 11, 2009 regarding the use of high school chapels in the Diocese of Phoenix for weddings.

The Diocese of Phoenix will not approve or allow a marriage to be performed outdoors.

Few bishops in the United States allow outdoor weddings at this time. From the experience of many bishops, priests, and laity involved in marriage preparation and wedding liturgies, they have found that such settings tend to give the wrong message about the seriousness and sacredness of the vows. In addition, outdoor weddings have to deal with many more difficulties and distractions. For example, there is the concern of the threat of inclement weather such that alternate plans have to be made and the focus becomes the place and not the sacred event. Also, should the ceremony have to move, the priest or deacon receiving the vows may run the risk of no longer having the faculty to validly receive those vows, therefore rendering the marriage invalid.

When a marriage is performed outside of an approved place, the vows must be received by a Catholic minister. Any request for this permission must include reasons as to why the couple is not able to be married in a parish church.

- **Dispensation from Canonical Form:** The Code of Canon Law defines the canonical form of marriage in this way: “Only those marriages are valid which are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses “ (*CIC*, 1108 §1). This requirement applies whenever there is at least one Catholic in the marriage. And, once a Catholic, always a Catholic. Therefore, even if an individual no longer considers himself/herself a Catholic, if he/she was baptized or received

into the Catholic Church, he/she must be married according to the canonical form the Catholic Church. The requirement for Catholics to be married according to canonical form affects the **validity** of the marriage.

If there is a good reason for a couple not to be married according to the canonical form of marriage, the Catholic party can ask for a dispensation from canonical form. **If granted, this dispensation means that a Catholic minister will not perform the wedding but the Catholic Church will consider the marriage valid and binding. This dispensation is never granted for two Catholics.**

Just as with the permission for marriage outside an approved place, there must be a good reason why the couple is not able to be married according to canonical form and the reasons must accompany the request for the dispensation.

If a dispensation from canonical form is granted, Catholic clergy are prohibited from asking for and/or receiving the consent of the couple in the marriage ceremony. Since the couple has requested to be free from the canonical form of marriage, it would be very confusing for the Catholic cleric to be involved in the ceremony. If a Catholic cleric wishes to attend the marriage ceremony, he should refrain from vesting or reading any prayers at the wedding ceremony. A Catholic priest or deacon may offer a blessing of the couple after the ceremony is complete.

In addition, **“It is forbidden to have another religious celebration of the same marriage to give or renew matrimonial consent before or after the canonical celebration. Likewise, there is not to be a religious celebration in which the Catholic who is assisting and a non-Catholic minister together, using their own rites, ask for the consent of the parties” (CIC, 1127 §3).**

Therefore, it is prohibited to have “joint ceremonies” with multiple ministers of different faiths or denominations. It is also prohibited for couples to have more than one wedding ceremony (unless a civil union is required in order to gain civil recognition of a marriage when a couple has a destination wedding).

Emergency Situations and Dispensations: In the case of an emergency, in which a dispensation is needed and the judicial vicar, adjutant judicial vicar, vicar general, episcopal vicar, or the diocesan bishop cannot be reached, the Code of Canon Law states the following:

Can. 1079 §1. In urgent danger of death, the local ordinary can dispense his own subjects residing anywhere and all actually present in his territory both from the form to be observed in the celebration of marriage and from each and every impediment of ecclesiastical law, whether public or occult, except the impediment arising from the sacred order of presbyterate.

§2. In the same circumstances mentioned in §1, but only for cases in which the local ordinary cannot be reached, the pastor, the properly delegated sacred minister [priest or deacon] ... possess the same power of dispensing.

§3. In danger of death a confessor possesses the power of dispensing from occult impediments for the internal forum, whether within or outside the act of sacramental confession.

§4. In the case mentioned in §2, the local ordinary is not considered accessible if he can be reached only through telegraph or telephone.

Can. 1080 §1. Whenever an impediment is discovered after everything has already been prepared for the wedding, and the marriage cannot be delayed without probable danger of grave harm until a dispensation is obtained from the competent authority, the local ordinary and, provided that the case

is occult, all those mentioned in can. 1079, §§2-3 [the pastor or the properly delegated priest or deacon] when the conditions prescribed therein have been observed possess the power of dispensing from all impediments except those mentioned in can. 1078, §2, n. 1 (the impediment arising from sacred orders or from a public perpetual vow of chastity in a religious institute of pontifical right).

§2. This power is valid even to convalidate a marriage if there is the same danger in delay and there is insufficient time to make recourse to the Apostolic See or to the local ordinary concerning impediments from which he is able to dispense.

Can. 1081 The pastor or the priest or deacon mentioned in can. 1079, §2 is to notify the local ordinary immediately about a dispensation granted for the external forum; it is also to be noted in the marriage register. [In the Diocese of Phoenix, the records of all marriage dispensations are kept in the Office of Canonical Services & the Tribunal. Therefore, please notify them so that the dispensation can be properly recorded.]



Secret Marriages: According to the laws of the State of Arizona, it is illegal for any cleric to witness a marriage that is not also recognized as civilly binding in some jurisdiction. Therefore, a cleric **may not** witness the vows of a couple who has not obtained a civil marriage license. All parties must have a valid civil marriage license or certificate in order to get married in the Catholic Church.

Civil Prenuptial Agreements: If a couple reveals during marriage preparation that they have signed, or will be signing, a civil prenuptial agreement, it is necessary that it be reviewed. This can be reviewed by the pastor of the parish, or it can be sent to the Office of Canonical Services & the Tribunal, who, after a formal review of the document, will send a written analysis of the agreement to the pastor, which should be shared with the couple.

Faculties: A priest's or deacon's faculty to celebrate weddings can be found in the Diocesan *Pagellae* (faculty handbook) and the priest's or deacon's individual decree of appointment.

A faculty is a power granted that enables a person the ability to act. By ordination, a priest or deacon does not have the faculty to witness marriages. A cleric acquires the faculty to witness marriages by office, by mandate of a diocesan bishop, or by delegation.

A priest or deacon who has the faculty to witness marriages can exercise that faculty only within the territorial boundaries of the parish to which he is assigned. For a cleric who has an assignment to a personal parish or has personal jurisdiction (military chaplain, for example) can exercise his faculty only over his own subjects.

Clergy who have the faculty to witness marriages by office (within their territory) are diocesan bishops, vicars general, episcopal vicars, and pastors. In the Diocese of Phoenix, parochial vicars and deacons assigned to the parish have this faculty by virtue of the *Pagellae*.

A dean does NOT have the faculty to witness marriages throughout his deanery. Rather, the dean only has the faculty to witness marriages within the parish boundaries of the parish to which he is assigned.

When there is a visiting bishop, priest, or deacon presiding at a wedding, the pastor or parochial vicar of that parish must delegate the faculty to the visiting cleric in writing.

If a cleric does not have the faculty to witness the vows of a couple, the marriage is invalid. Please consult the Office of Canonical Services & the Tribunal if you have questions about faculties.

The marriage rite presumes that the priest who celebrates a wedding Mass is also the cleric who asks for and receives the vows of the couple. If it is the desire of the couple to have a wedding Mass, the presiding priest must be the one to receive the vows. *The General Instruction of the Roman Missal* states in number 108, “One and the same Priest must always exercise the presidential function in all of its parts, except for those parts which are proper to a Mass at which the Bishop is present.” Therefore, in general it is not appropriate for a deacon to receive the vows of a couple during a wedding Mass. However, in highly unique and rare circumstances the diocesan bishop may grant an exception to this. Contact the Office of Canonical Services & the Tribunal to make such a request. (Please also refer to *Inter Oecumenici*, 72 for when multiple priests participate in the liturgy.)

Eastern Catholics: There are 24 churches *sui iuris* in the Catholic Church; the largest of these is the Latin Church. The other 23 are Eastern Churches. These churches are in full communion with the Pope and all of their sacraments are valid and licit. The Diocese of Phoenix is a LATIN Catholic Diocese and in most cases we do not have jurisdiction over the other Eastern Churches *sui iuris*. Therefore, if an Eastern Catholic couple approaches a Latin cleric for marriage, the Latin cleric does not have the faculty to witness their marriage. The couple needs to be sent to their Church *sui iuris*. If you have any questions about this, please contact the Office of Canonical Services & the Tribunal.

A Latin Catholic may marry an Eastern Catholic in that Catholic’s Eastern Church, and vice versa. This is perfectly acceptable and no dispensation or permission is needed. All parties are Catholic and as long as the

priest belongs to the Church *sui iuris* of at least one of the parties, the marriage is valid. However, if an Eastern Catholic is a party to a marriage, a priest must receive the vows. A deacon is not able to witness the vows of an Eastern Catholic due to the form requirement of the priestly blessing, which is required for validity.

Ascription: Another issue that arises is when someone has entered the Church from another Christian Church or denomination. According to the laws and tradition of the Catholic Church, a baptized Christian retains his/her church *sui iuris* when entering the Catholic Church. Here are some examples:

A Lutheran becomes a Latin Catholic.

An Ukrainian Orthodox becomes an Ukrainian Catholic.

A Russian Orthodox becomes a Russian Catholic.

A Baptist becomes a Latin Catholic.

In order to formally change one's ascription, there is a formal process that must be completed between dioceses and eparchies, or with the Holy See.

This change of Churches cannot be done at the parish and is not part of the process of OCIA. Just because someone comes into the Catholic Church in the Latin Church does not mean that person is a Latin Catholic. You are who your parents are. We must be attentive to the Christian community or church from which the individual is entering the Catholic Church. If you have any questions, please contact the Office of Canonical Services & the Tribunal.

Orthodox Christians: The Eastern Orthodox Churches are not in union with Rome. However, all of their sacraments are valid.

If a Catholic wants to marry an Orthodox Christian in the Orthodox Church, they must petition for a dispensation from canonical form and permission for mixed marriage. However, these dispensations and per-

missions are only for liceity.

If a Catholic wants to marry an Orthodox Christian in the Catholic Church, they must request permission for mixed marriage.

Recording the Marriage in Sacramental Records: The Code of Canon Law states:

Can. 1121 §1. After a marriage has been celebrated, the pastor of the place of the celebration or the person who takes his place, even if neither assisted at the marriage, is to note as soon as possible in the marriage register the names of the spouses, the person who assisted, and the witnesses, and the place and date of the celebration of the marriage according to the method prescribed by the conference of bishops or the diocesan bishop...

§3. For a marriage contracted with a dispensation from canonical form, the local ordinary who granted the dispensation is to take care that the dispensation and celebration are inscribed in the marriage registers of both the curia and the proper parish of the Catholic party whose pastor conducted the investigation about the free status. The Catholic spouse is bound to notify as soon as possible the same ordinary and pastor about the marriage celebrated and also to indicate the place of the celebration and the public form observed.

Can. 1122 §1. The contracted marriage is to be noted also in the baptismal registers in which the baptism of the spouses has been recorded.

§2. If a spouse did not contract marriage in the parish in which the person was baptized, the pastor of the place of the celebration is to send notice of the marriage which has been entered into as soon as possible to the pastor of the place of the conferral of baptism.

V.

Pastoral Care after the Wedding

As is true of any vocation, there are often difficulties and struggles in a marriage. Regular participation in the sacraments of Holy Communion and Penance provides grace and strength to endure those challenging times.

In addition, Catholic couples should be enriched and supported by their parish and other married Catholics. Numbers 69-78 of *Familiaris Consortio* deal with the pastoral care of young couples and families. It states, “[E]very local Church and, in more particular terms, every parochial community, must become more vividly aware of the grace and responsibility that it receives from the Lord in order that it may promote the pastoral care of the family. No plan for organized pastoral work, at any level, must ever fail to take into consideration the pastoral care of the family” (70).

The clergy have a particular responsibility in this work as they are agents of this pastoral care. “Priests and deacons, when they have received timely and serious preparation for this apostolate, must unceasingly act towards families as fathers, brothers, pastors and teachers, assisting them with the means of grace and enlightening them with the light of truth. Their teaching and advice must therefore always be in full harmony with the authentic Magisterium of the Church in such a way as to help the People of God to gain a correct sense of the faith, to be subsequently applied to practical life. Such fidelity to the Magisterium will also enable priests to make every effort to be united in their judgments, in order to avoid troubling the consciences of the faithful” (73).

Some suggestions for parishes to care for couples and families are:

- Designate active couples in the parish to meet with newly married couples one-on-one to continue their formation in the vocation of marriage. Careful discernment about which couples to choose is essential, and ongoing formation of couples may be

needed.

- Meetings with priests or deacons, as well as workshops and spiritual formation programs offered for couples and families.
- Encourage all couples to learn Natural Family Planning, even if they have been married for many years. Not only is NFP the only accepted form of family planning in the Catholic Church, it is also an effective tool to promote communication and bonding between the spouses.
- Encourage married couples to learn more about theology of the body and human sexuality through the Diocese's John Paul II Resource Center for Theology of the Body and Culture.
- Encourage the husband or wife to individually attend the annual Diocesan Men's or Women's conference. The conferences are evangelistic and catechetical, and the subject of marriage is always an essential part of the day.
- Promote a Marriage Encounter or other marriage renewal retreat or event in the diocese.
- For parishioners in a troubled marriage, recommend that they approach Retrouvaille for assistance.
- Experienced Catholic counseling professionals can also help couples in need.

Wedding Anniversaries: It is important to celebrate the successes in marriage. The natural time to do so is on a major anniversary. The Church provides a wonderful liturgy for these occasions, *The Order of Blessing a Married Couple within Mass on the Anniversary of Marriage*. This liturgy should be used on such occasions. Many have created a “renewal of vows ceremony” through the use of the marriage rite, but this is not an approved use of the marriage rite. Renewing vows in this way is contrary to the teachings and laws on marriage, which state that a couple must renew their vows if they are *invalid*. Anniversaries are a time to celebrate the *validity* of a bond so a renewal of vows would be inappropriate. Vows exchanged validly are valid until one of the parties dies and cannot be renewed.



VI.

Catholics in Invalid Unions

As previously stated, a Catholic, either baptized Catholic or received into the Church by profession of faith, must marry according to the canonical form of the Catholic Church for the validity of that marriage. Therefore, if a Catholic marries in a ceremony without a Catholic priest or deacon, or “outside of the Catholic Church”, without a dispensation, the marriage is invalid and the couple is not considered to be married. Living in a state such as this is contrary to the teachings and laws of the Catholic Church and renders a person ineligible to receive sacraments. Catholics in civil unions are also not permitted to be involved in public ministry (i.e. Extraordinary Minister of the Eucharist, Lectors, Ushers, Parish Council, etc.; see CCC, 1650). Ministers are witnesses to all of the teachings of the Church and so their marital status must be in accord with the teachings of the Church.

There are three possible solutions for a Catholic in an invalid union:

1. **Get married in the Catholic Church:** To have a valid marriage and be eligible to receive sacraments, both parties must make a new act of marital consent according to the canonical form of the Church. In other words, they must get married (provided that they are free to marry. See the section on Annulments for more information). Furthermore, the full marriage preparation process is required for all couples, even if they already are in a civil union, as are any permissions and dispensations.

It is common to hear the term “**convalidation**” for this situation, however this term can cause confusion. It leads people to believe that their civil union is being “validated” or “recognized” by the Church, which is not the case. It is only their consent exchanged in accord with canonical form that makes, for the first time, the couple married. A “convalidation” is not retroactive.

There is a misunderstanding that couples have gotten “their marriage blessed”. This concept is also incorrect. A blessing cannot create anything but is given to something that already exists. Therefore, it is only possible to bless a valid marriage.

If one or both of the parties intends the marriage in the Catholic Church as merely a “blessing” ceremony or a recognition of their civil union, it can cause their marriage to be invalid. In essence, the parties must know and accept that their marriage in the Church is the true and actual beginning of their marriage, and that their civil union was invalid.

2. ***Sanatio in Radice (Sanation)***: canon law defines a sanation as the following: “The radical sanation of an invalid marriage is its convalidation without the renewal of consent, which is granted by competent authority and entails the dispensation from an impediment, if there is one, and from canonical form, if it was not observed, and the retroactivity of canonical effects” (CIC, 1161 §1). For some couples in an invalid civil union, who are free to marry, getting married in the Catholic Church is not possible. This could be that one is now impotent, or a non-Catholic party does not accept that their civil union is invalid and could not make a new act of the will by marrying in the Catholic Church. In those situations, requesting a sanation of the marriage may be an option. Unlike getting married in the Church (a.k.a. convalidation), a sanation is retroactive and renders the marriage valid from the moment of the original consent. A sanation can never fix broken consent, but can only “heal” invalidity caused by an undispensed impediment or the lack of canonical form.
3. ***Frater/Soror***: If getting married in the Church or a sanation is not possible for a couple in an invalid civil union, and it would be burdensome for the couple to separate, it may be possible for the couple to request a *Frater/Soror*, or to promise to live as brother/sister in order to receive sacraments. The issue preventing a couple from the reception of sacraments is a sexual relationship with someone who is not their true spouse. If the couple promises to live a continent life, they thereby remove the sin preventing them from the reception of the sacraments (except for marriage due to the impediment of a pri-

or bond). However, the concern of the Church is two-fold: sin and scandal. The return to the sacraments of a couple who promised to live as brother/sister can only be permitted if it would not cause scandal in the community in which they belong (Matthew. 18:6). Meaning, if a couple would suddenly start receiving Holy Communion at Mass where their invalid marital situation is known, it could cause people to think that the rules on divorce and remarriage had changed, thus leading the community into error about the Church's teachings. These requests are an arrangement with a particular pastor and the couple and, in the Diocese of Phoenix, is reviewed by the bishop. Should a couple move to a new community, a new *Frater/Soror* request must be submitted with the new pastor.



What is NOT a solution—Internal Forum: There appears to be a lot of misunderstanding and outright error amongst some clergy as to how to deal with the situations of divorced and remarried Catholics. (The three options explained above, marriage in the Church, sanation, and *Frater/Soror* are all the normal and permitted solutions for assisting Catholics in these situations, as they are in accord with the teachings and laws of the Catholic Church, and God's plan for marriage.) For some years, however, there has been a mistaken practice by some clergy to attempt to reconcile divorced and remarried Catholics to the Church by using what is sometimes called the "Internal Forum Solution." The so called "solution" alleges that a divorced and civilly remarried Catholic can feel free to approach Holy Communion, either without having petitioned for an annulment, or after having received a negative decision. The Office of Canonical Services & the Tribunal and other pastoral ministers have had to address the unfortunate consequences resulting from the use

of the “Internal Forum Solution.” Couples often feel betrayed and hurt when they realize a member of the clergy gave them wrong information. It is not a “solution” at all but a misinterpretation of Church law and moral practice that, in truth, solves nothing.

The “Internal Forum Solution” usually manifests itself in one of three ways: 1. a priest, in advising divorced and remarried Catholics regarding their eligibility to receive Holy Communion, tells a person that they should follow their conscience, despite the decision of an ecclesiastical tribunal as to their marital status; 2. a priest “absolves” such Catholics in Confession without the intention of the Catholic to remedy their present situation; 3. a cleric secretly witnesses a marriage of people not free to marry giving the impression that the Church is sanctioning the union. These three practices will be addressed below.

1. Part of the reason that this pastoral practice is impossible is because the married state is a public reality and is not, therefore, a matter of the *internal* forum that remains secret. Therefore, this cannot be only a matter of the conscience since marriage is a public institution. The Congregation for the Doctrine of the Faith stated the following:

The mistaken conviction of a divorced and remarried person that he may receive Holy Communion normally presupposes that personal conscience is considered in the final analysis to be able, on the basis of one's own convictions, to come to a decision about the existence or absence of a previous marriage and the value of the new union. However, such a position is inadmissible. Marriage, in fact, because it is both the image of the spousal relationship between Christ and his Church as well as the fundamental core and an important factor in the life of civil society, is essentially a public reality.

It is certainly true that a judgment about one's own dispositions for the reception of Holy Communion must be made by a properly formed moral conscience. But it is equally true that the consent that is the foundation of marriage is not simply a private decision since it creates a specifically ecclesial and social situation would mean in fact to deny that marriage is a reality

of the Church, that is to say, a sacrament (§7-8, 1994 Congregation for the Doctrine of the Faith's Letter to Bishops).

In addition, St. Pope John Paul II in his 1995 address to the Roman Rota stated, "An action deviating from the objective norm or law is thus morally reprehensible and must be considered as such: while it is true that humans must act in conformity with the judgment of their own conscience, it is equally true that the judgment of conscience cannot claim to establish the law it can only recognize it and make it its own."

2. With regard to the "Internal Forum Solution" and the Sacrament of Confession, when someone is "absolved" of a sin with no purpose of amendment, that person is not truly forgiven of the sin. So, if a person goes to confession regarding the issue of divorce and remarriage, with no intention of remedying the situation, the person remains ineligible to receive Holy Communion.

The Catechism of the Catholic Church states,

Today there are numerous Catholics in many countries who have recourse to civil divorce and contract new civil unions. In fidelity to the words of Jesus Christ - "Whoever divorces his wife and marries another, commits adultery against her; and if she divorces her husband and marries another, she commits adultery." The Church maintains that a new union cannot be recognized as valid, if the first marriage was. If the divorced are remarried civilly, they find themselves in a situation that objectively contravenes God's law. Consequently, they cannot receive Eucharistic communion as long as this situation persists. For the same reason, they cannot exercise certain ecclesial responsibilities. Reconciliation through the sacrament of Penance can be granted only to those who have repented for having violated the sign of the covenant and of fidelity to Christ, and who are committed to living in complete continence (CCC, 1650).

St. Pope John Paul II also states in *Familiaris Consortio*, 84,

However, the Church reaffirms her practice, which is based upon Sacred Scripture, of not admitting to Eucharistic Communion divorced persons who have remarried. They are unable to be admitted thereto from the fact that their state and condition of life objectively contradict that union of love between Christ and the Church which is signified and effected by the Eucharist. Besides this, there is another special pastoral reason: if these people were admitted to the Eucharist, the faithful would be led into error and confusion regarding the Church's teaching about the indissolubility of marriage.

Reconciliation in the sacrament of Penance which would open the way to the Eucharist, can only be granted to those who, repenting of having broken the sign of the Covenant and of fidelity to Christ, are sincerely ready to undertake a way of life that is no longer in contradiction to the indissolubility of marriage. This means, in practice, that when, for serious reasons, such as for example the children's upbringing, a man and a woman cannot satisfy the obligation to separate, they "take on themselves the duty to live in complete continence, that is, by abstinence from the acts proper to married couples."

3. When a cleric agrees to witness a marriage of a couple where one or both of the parties has been married previously but does not have an annulment and a prior spouse is still living, the cleric does so contrary to the teachings and laws of the Church (Matthew 19:1-12). This action by a member of the clergy gives the couple the impression that the Church now accepts their union as valid and that they can approach Holy Communion. Despite the fact that their consent was "received" by a cleric, the marriage would be invalid and not sanctioned by the Catholic Church if one or both of the parties is impeded from marrying due to the impediment of a prior marital bond.

It must be stressed that although the "Internal Forum Solution" may seem like a pastoral and merciful solution to enable the faithful to reconcile with the Catholic Church, it is actually misleading, compromises the integrity of the sacraments, and does not assist in the salvation of souls. Ultimately, clergy who claim to use the "Internal Forum Solution"

do more harm to the faithful than good in these difficult situations.

The Congregation for the Doctrine of the Faith stated the following about ministering to the faithful in this situation:

This does not mean that the Church does not take to heart the situation of these faithful, who moreover are not excluded from ecclesial communion. She is concerned to accompany them pastorally and invite them to share in the life of the Church in the measure that is compatible with the dispositions of divine law, from which the Church has no power to dispense. On the other hand, it is necessary to instruct these faithful so that they do not think their participation in the life of the Church is reduced exclusively to the question of the reception of the Eucharist. The faithful are to be helped to deepen their understanding of the value of sharing in the sacrifice of Christ in the Mass, of spiritual communion, of prayer, of meditation on the Word of God, and of works of charity and justice (§6, 1994 Congregation for the Doctrine of the Faith's Letter to Bishops).

For more information on how to minister to Catholics in invalid marriages, please see the 1994 document from the Congregation for the Doctrine of the Faith, *Letter to the Bishops of the Catholic Church Concerning the Reception of Holy Communion by the Divorced and Remarried Members of the Faithful, Familiaris Consortio*, and the pastoral letter to the priests of the Diocese of Phoenix on the Sacrament of Penance and Reconciliation, issued January 25, 2013.

If there are any concerns or questions about these issues, especially regarding particularly difficult pastoral issues, please contact the Office of Canonical Services & the Tribunal for clarification and guidance.



VII. OCIA and Marriage

Those people who present themselves for catechesis with a view towards becoming Catholic, or Catholics who desire to complete their sacraments of initiation, often bring with them complicated marital situations that may prevent them from the reception of sacraments.

It is highly recommended that an intake form and interview be completed early in the OCIA inquiry process, and that the form and interview ask specifically about any previous marriages, divorces, or annulments for both the inquirer *and his or her spouse*. Although this may not be appropriate immediately upon welcoming an inquirer to the OCIA process, it is very important to complete this step as early as possible, and certainly prior to the Rites of Acceptance or Welcoming.

The following are the various marriage situations common to OCIA and how to approach them. These situations can be very complicated, so if there are any questions or concerns, please contact the Office of Canonical Services & the Tribunal.

Married catechumens, or those intending to marry, with prior marriages: While catechumens in irregular marriages are impeded from completing initiation, they can participate in the Period of Pre-Catechumenate, the Rite of Acceptance and the subsequent period of the Catechumenate, but they cannot be accepted as Elect (i.e. be admitted to the Rite of the Elect) and/or approach the sacraments until matter of a prior marriage has been resolved.

If resolved, Catechumens may or may not need to get married in the Catholic Church prior to the reception of sacraments.

- If the catechumen is in a civil union with a Catholic, and the catechumen and/or his/her spouse receives an annulment (or the prior spouse has died) they will need to go through marriage preparation

and be married in the Catholic Church before the catechumen can receive sacraments.

- If the catechumen is married to a non-Catholic, and the catechumen and/or his/her spouse receives an annulment regarding a previous bond (or the prior spouse has died), the catechumen's current bond is now considered to be valid and binding. This is because since the first marriage was declared invalid, there was no actual impediment present at the time of the second marriage. And, because neither party was Catholic at the time of the consent of the second marriage, they were never bound to get married in the Catholic Church. Therefore, they are not to get married in the Catholic Church and the catechumen is free to receive sacraments.

If the catechumen is in an irregular marriage but resolving prior marriages is not possible, please contact the Office of Canonical Services & the Tribunal about the *Frater/Soror*.

Married candidates, or those intending to marry, with prior marriages: these candidates can be brought through the Rite of Welcoming, and so enter into the period of formal instruction in the faith. However, they should not go through the Rite of Call to Continuing Conversion, as that would imply that they are able to receive the Sacraments of Initiation in their current state. These candidates would not be able to receive the Sacraments of Initiation until their marital status is resolved.

If a candidate receives an annulment, the same rules apply for the need for marrying in the Catholic Church as it does for catechumens (see above). If resolving prior marriages is not possible, please contact the Office of Canonical Services & the Tribunal about the *Frater/Soror*.

Catholics needing to complete the Sacraments of Initiation who are in a civil union, or intending to marry, and have prior marriages: Candidates who were baptized in the Catholic Church would follow the same basic requirements as other candidates in this situation. The only difference being that a baptized Catholic must always marry in the Catholic Church following the reception of an annulment. If

resolving prior marriages is not possible, please contact the Office of Canonical Services & the Tribunal about the *Frater/Soror*.

A divorced or separated catechumen, candidate, or Catholic needing to complete their sacraments of initiation who is not intending to remarry: these people do not need a declaration of nullity to be accepted for the Rite of Election or the Rite of Calling to Continuing Conversion and consequently, the sacraments of initiation. However, it must be understood to the person that despite a divorce, the Catholic Church considers them to still be married and that they must live that way in order to be eligible to receive sacraments. Any future attempts to remarry without a declaration of nullity (or death of the previous spouse) would make them ineligible to receive sacraments.

Married non-Catholics with no previous marriages: married couples who have no prior marriages, and neither party was Catholic at the time of the wedding, are not bound by canonical form and therefore are married in the eyes of the Church. Their marriage is valid. After they receive their sacraments, they may not get married in the Catholic Church. The couple may have a blessing of their union, but a renewal of vows is prohibited.

Catholics in a civil union with no previous marriages: Individuals or couples who are Catholic but married outside of the Church, and who have no previous marriages will need to get married prior to receiving the sacraments. Individuals or couples who are Catholic, but in a civil union and who have no previous marriages will need to prepare for and get married in the Catholic Church prior to completing their Sacraments of Initiation.



VIII.

Annulments

According to the laws and teachings of the Church, all marriages, of anyone Catholic or not, are presumed to be valid and binding until proven otherwise. An annulment, or a declaration of nullity, is a determination, after a thorough investigation, that a particular marriage is invalid. Therefore, every attempt at marriage, whether it was in the Catholic Church or not, must be investigated through a process (unless a previous spouse has died) if someone desires to be free of that marriage.

An annulment is NOT:

- Catholic divorce
- Simply the permission to marry again in the Catholic Church
- The Sacrament of Confession.

The annulment process is an investigation into whether or not the bond of marriage was formed at the time of consent. Because this investigation is a judicial process, it is required that a petitioner present witnesses, evidence, and testimony.

Receiving an annulment can NEVER be presumed! Negative decisions are given, which means the Catholic Church considers the parties of the annulment to still be married despite their civil divorce. Therefore, a wedding date should not be set until the parties are declared free to marry. Because the annulment process can be lengthy and it is not guaranteed that the annulment will be granted, the couple must wait until the court has made its decision before setting a date.

The following are likely to petition for an annulment (this is not an exhaustive list):

- A divorced Catholic
- A divorced non-Catholic who would like to marry a Catholic
- A divorced and remarried non-Catholic who wishes to enter the Catholic Church.

Non-Catholics: The Catholic Church upholds the permanence of all marriages, whether they are Catholic or not. Thus, in any case of a marriage between two non-Catholics, the presumption is that a marriage is valid. Before a person can marry a Catholic, he/she must petition for an annulment because it is assumed that he/she is still married and is not free to marry again unless it can be proven that the first marriage was invalid. According to Catholic teaching, divorce does not have any effect upon the binding nature of a marriage, for anyone, Catholic or not. (See chapter 2 of this document and CCC 1603.) Therefore, despite the desire of the couple to divorce civilly and to separate themselves and their belongings, in the eyes of the Church the bond of marriage is presumed to remain binding upon the two parties. As a result, in order to be free to marry it must be proven that the bond of marriage did not exist in the first place, thus making it necessary for a person to petition for an annulment.

Nullity Ministers: The policy of the Diocese of Phoenix is that each parish have at least one Nullity Minister available to assist people with submitting their annulment petition to the Tribunal. The Tribunal provides an intensive training program so that Nullity Ministers are knowledgeable about the requirements for the petition.

Ministering to those who cannot receive an annulment: Assisting those who are in an irregular marital situation is a particularly delicate pastoral situation, especially if they cannot get married in the Catholic Church due to a prior bond. When someone receives a negative decision on in an annulment investigation, or they are not able to apply for an annulment, they are not eligible to marry in the Catholic Church due to the impediment of a prior bond. As they are considered to be married to someone else, they cannot get married again.

For couples in this situation, they have the option of the *Frater/Soror* if they desire to receive sacraments. This does not allow them to get married, as they are already married to someone else, but their promise to not engage in sexual relations with each other would render them eligible to receive all other sacraments (except marriage and orders), including becoming Catholic. See the section on the *Frater/Soror* in Chapter VI for more information.

