

What is the annulment process?

The annulment process is an extensive investigation of the bond of a marriage. The process begins when a party petitions the Tribunal for a declaration of nullity by challenging the validity of his/her marriage. The party who initiates the process is referred to as the Petitioner; the other party is referred to as the Respondent. The Tribunal then conducts an investigation into the circumstances surrounding the time of the wedding. The investigation seeks to establish whether there was ever a marital bond as understood by the Catholic Church. If not, the marriage is considered invalid. A declaration of nullity does not dissolve a marriage bond that already exists, but declares that the bond was never created from the beginning.

The annulment process is seven steps, which are detailed in this brochure:

- Step 1: The Petitioner submits a petition to the Tribunal
- Step 2: The Respondent is contacted
- Step 3: Evidence gathering
- Step 4: Publication of the Acts
- Step 5: Defender of the Bond
- Step 6: Decision
- Step 7: Effects of the decision and appeal

Step 6: Decision

The Judges now examine the evidence to determine whether the grounds were proven. In every petition for an annulment, the marriage is presumed valid until proven otherwise. The judges must reach moral certitude, a high burden of proof, to justify that the marriage was, in fact, invalid. The case can receive an Affirmative or Negative decision. An Affirmative means that it was determined that the marriage was invalid; a Negative decision means that the marriage is valid, or that there was not enough information to overturn the presumption of law. When the Judges have made their decision, a document is written to explain why the marriage is valid or invalid. This document is called the Sentence and is sent to both the Petitioner and the Respondent.

Step 7: Effects of the decision and appeal

If the Judges render an “Affirmative” decision, it means that the marriage is invalid and the Petitioner and Respondent are free to marry, unless another marriage is in need of investigation. However, it is possible for the Respondent or the Defender of the Bond to appeal the decision to a higher court if they do not agree with the decision of the Judges. If there is an appeal within the prescribed time limit, the Sentence is suspended and the parties are not free to marry until the appeal has been heard.

If the first instance judges render a “Negative” decision, the Church still considers these parties to be married. They are not free to marry other parties. The Petitioner or the Respondent may appeal this decision to a higher court.

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THE ANNULMENT PROCESS

A Step-By-Step Guide



DIOCESE OF PHOENIX
OFFICE OF CANONICAL SERVICES
& THE TRIBUNAL



Step 1: The Petitioner submits a petition to the Tribunal

All petitions are initiated at the parish level through a certified Nullity Minister. The Nullity Minister is trained by the Tribunal and assists Petitioners in determining the type of petition to file. They also help gather the documents and information required. For formal annulments, the Nullity Minister will help the Petitioner establish the grounds on which the investigation and decision will be based. Once the petition is completed, the Nullity Minister will forward it to the Tribunal. When it is received, it is reviewed by the Tribunal staff to ensure all the requisite information was included and if the Tribunal has competency (jurisdiction) to hear the case. Once the file is complete, the petition is formally accepted by the Tribunal and the investigation begins. The burden of proof is on the Petitioner. In other words, it is the Petitioner's responsibility to show the Tribunal that the marriage in question is invalid. The presumption of the law is that the marriage is valid until proven otherwise.

Step 2: The Respondent is contacted

At the beginning of the annulment process, the Respondent must be cited. As a party to the marriage, he/she must be aware of the investigation. The Petitioner must provide a current address for the Respondent. However, the Petitioner is not required to have any contact with the Respondent, although it is recommended that the Petitioner alert the Respondent that a petition against the validity of the marriage has been submitted. The Tribunal communicates with the Respondent regarding everything else.

The Respondent has a right to:

1. Participate—but does not have to
2. Object to the grounds
3. Provide testimony
4. Provide witnesses
5. Read the testimony
6. Receive a copy of the Sentence
7. Appeal the decision of the court

Step 3: Evidence gathering

At this stage, questionnaires are sent to the named witnesses and the Respondent, if he/she is participating. Then, the Tribunal waits for the completed questionnaires. Cases are often delayed because the witnesses do not respond in a timely manner. An Auditor, a person assigned to further investigate and gather supplemental evidence, will be assigned if the testimony is weak. This process can also significantly delay an annulment case. Therefore, witnesses must be punctual and very thorough in their answers.

Step 4: Publication of the Acts

When all of the testimony has been collected, the evidence (the Acts) is published. Publishing the evidence does not mean that they are open to the public domain. Rather, the Petitioner and Respondent have the right to read all of the evidence gathered regarding the case. This is a one-time opportunity and is a supervised review at the Office of the Tribunal. No copies of the evidence can be made, or notes taken.

Step 5: Defender of the Bond

After the evidence gathering phase and publication of the Acts has been concluded, the Defender of the Bond will prepare his/her brief on behalf of the marriage. A Defender of the Bond is a required member of the court on annulment cases. The role of the Defender is to prepare an opinion in favor of the validity of the marriage. The Defender also makes sure that the other members of the Court followed proper procedures in processing the case.