



Policy on Lack of Canonical Form

A. Validity of Marriage in the Catholic Church

The Catholic Church has a pastoral concern for its members and their growth in holiness. Essential to this is their sacramental life in the Church. Consequently, the Church should be involved in their preparation and celebration of the Sacrament of Holy Matrimony.

Canon 1059 points out that the marriage of Catholics, even if only one party is Catholic, is governed not only by divine law but also by canon law, without prejudice to the competence of the civil authority with respect to the civil effects of the marriage.

For Catholic entering into marriage the Church requires that:

1. The spouses are free to marry – i.e., there is no prior bond nor undispensed impediment. If one or both parties are bound by a previous marriage bond, a decree of nullity of the previous marriage must be obtained or a Pauline or Petrine Privilege decree must be granted (canon 1060);
2. They freely exchange their consent (canon 1057);
3. In consenting to marry, they have the intention to marry for life, to be faithful to one another and be open to children (canon 1055); and
4. Their consent is given in the proper canonical form (canon 1108 §1) as defined below.

B. Definition of Canonical Form

The canonical form of marriage is stated in canon 1108 §1:

Only those marriages are valid which are contracted in the presence of the local Ordinary or parish priest or of the priest or deacon delegated by either of them, who, in the presence of two witnesses, assists.

This means that a Catholic party must be married before a duly-authorized priest or deacon and in the presence of two witnesses, using the Catholic form of marriage.

For a Catholic party planning to enter into a mixed religion marriage, the Archbishop may provide a dispensation from canonical form, permitting the marriage to take place before non-Catholic clergy or a civil official in certain circumstances. However, this dispensation must be granted before the marriage, and cannot be given for a marriage where both parties are Catholics.

C. Definition of a Lack of Canonical Form and Defect of Form

A case of Lack of Canonical Form deals with an invalid marriage.

A marriage is invalid when a Catholic and a non-Catholic party who have not obtained a dispensation fail to observe canonical form by marrying in a non-Catholic or civil ceremony.

Marriage is also invalid when two Catholics marry in a non-Catholic or civil ceremony, such that they did not observe canon 1108 which requires the marriage to be contracted in front of a priest



or deacon.

If a party to a marriage celebrated without the required canonical form divorces and now wishes to enter a future marriage in the Catholic Church with another person, he/she first must obtain a “lack of canonical form” decree to verify that the prior marriage meets the criteria of “lack of canonical form.” This process demonstrates that there was no valid marriage, and that neither party is bound to the union. This is a simple administrative process which declares that the Catholic party is free to marry.

Three elements must be demonstrated:

1. That at least one of the spouses was bound to observe the canonical form at the time of the wedding; this is demonstrated by submitting an annotated baptismal certificate for the Catholic party (obtained within the past six months);
2. That the marriage in question was not celebrated following a dispensation from canonical form by the proper Bishop;
3. That the original civil ceremony or non-Catholic ceremony was not subsequently validated – “blessed” – in a Catholic ceremony or sanated (corrected) by the proper Church authority.

Defect of Form usually refers to rare cases in which the Catholic form of marriage was attempted, but something was missing – thus, the form was “defective.” For example, a defect of form case arises from a marriage celebrated before a priest or deacon who lacks the necessary authority to witness the marriage or when the necessary two witnesses were not present. These cases can be treated in the same documentary process described above.

D. Declaration of Freedom

A “Declaration of Freedom” is written evidence that the Catholic party

1. Has not been married before; or
2. If previously married, was not involved in a valid marriage and is therefore not bound to the union.

When a person who was involved in a non-valid marriage divorces his/her spouse and wishes to enter into a marriage in the Catholic Church, the marriage cannot take place until a decree is issued. For a decree to be issued, it must be shown that:

1. At least one of the spouses was bound to observe the canonical form at the time of the wedding; this is demonstrated by submitting the baptismal certificate¹ for the Catholic party;
2. The marriage in question was not celebrated with a dispensation from canonical form by the proper Bishop;
3. The original non-Catholic ceremony was not subsequently validated (blessed) in a

¹ The certificate must be updated within the past six months.



Catholic ceremony or sanated (corrected) by the proper Church authority.

E. Procedure to Obtain the Declaration

1. All petitions are to be addressed to the Vancouver Regional Tribunal. Canon 1686 gives the competence for such cases to the Judicial Vicar, and requires the intervention of the Defender of the Bond.
2. The petition must include²:
 - a. **Formal Petition** (Appendix I);
 - b. **Lack of Canonical Form Questionnaire** (Appendix II), completed by the Catholic party's pastor during an interview with the petitioner;
 - c. **Baptismal certificate** of the Catholic party, updated within the last six months;
 - d. **Marriage Registration** from the Department of Vital Statistics;
 - e. **Divorce Certificate** or Decree Absolute;
 - f. **Affidavit of Respondent** (Appendix III);
 - g. **Affidavit of Witness** (Appendix IV) from two individuals who knew both the Petitioner and the Respondent at the time of the attempted marriage. This document is required only if the Respondent's contact information is unknown; and
 - h. \$150.00 application fee, payable to the Roman Catholic Archbishop of Vancouver.
3. The Tribunal must have sufficient time to:
 - a. Contact the Respondent; and
 - b. Contact the Chanceries of all the Dioceses where the couple lived during the marriage to ensure that no dispensation was ever granted and that the marriage was never convalidated or sanated.

No wedding date is to be fixed until the declaration of freedom has been issued.

F. Need to Contact the Respondent

The other party in the marriage must be contacted because:

1. As an equal partner in the previous union, he or she has a natural right to be advised of any action that is taken;
2. It may be the only way of knowing whether the Petitioner is adequately fulfilling natural obligations arising out of the previous union (Cf. canon 1071, §1, 3).

² The petitioner will need to contact the Vancouver Regional Tribunal (<http://rcav.org/contact-marriage-tribunal/>) to obtain the required forms for the Declaration of Freedom application. Copies of the forms can be found in the Appendices.



3. There is always the possibility that the Petitioner is concealing the fact of a convalidation³ or a *sanatio*⁴, or simply that “Sanatio” was secured by one party without the other being made aware.

Approved: 2017-October-04
Memorial of St. Francis of Assisi

+ J. Michael Miller CSB

† J. Michael Miller, CSB
Archbishop of Vancouver

The following policy is hereby superseded:
Lack of Canonical Form Cases issued on May 24, 1984

³ Blessing of the marriage.

⁴ A decree issued by a diocesan Bishop in which he accepts the original consent of the civil marriage and the marriage becomes retroactively valid. A common reason for this to be done is when one party who is not Catholic does not want to go through a convalidation ceremony and believes in his/her heart that he/she is already married.



Appendix I: Formal Petition



VANCOUVER REGIONAL TRIBUNAL

4885 Saint John Paul II Way, Vancouver, BC V5Z 0G3
Telephone: (604) 683-0281

FORMAL PETITION

I, _____ the undersigned, do hereby
Name of Petitioner
present my formal petition to the Vancouver Regional Tribunal for examination of my
marriage to _____ which was never
Name of Respondent
solemnized in the Catholic Church. This marriage may be declared invalid by reason of
Lack of Canonical Form in proof of which I submit the enclosed documentation.

Petitioner's Signature

Given at _____
City, Prov.

On this _____ day of _____
No. Month Year

Witnessed by: _____
Name of Witness

Signature of Witness

rcav.org/marriage-tribunal



Appendix II: Lack of Canonical Form Questionnaire



VANCOUVER REGIONAL TRIBUNAL

4885 Saint John Paul II Way, Vancouver, BC V5Z 0G3
Telephone: (604) 683-0281

LACK OF CANONICAL FORM QUESTIONNAIRE

This form is to be completed by the petitioner in an attempted marriage or common-law union. If more than one marriage, a separate form must be completed for each marriage.

Only the interviewer may write the answers on this form.

OATH:	Do you solemnly swear to tell the truth, and nothing	<input type="checkbox"/> Yes
	but the truth, in answering the following questions?	<input type="checkbox"/> No

1. Parties to the Union

PETITIONER

RESPONDENT¹

_____	Full Name	_____
_____	Present Address	_____
Apt # - Street Address		Apt # - Street Address
_____		_____
City, Prov. Postal Code		City, Prov. Postal Code
_____	Home Phone	_____
_____	Cell Phone	_____
_____	Email Address	_____
<input type="checkbox"/> single <input type="checkbox"/> widowed <input type="checkbox"/> divorced	Marital Status (at the time of marriage)	<input type="checkbox"/> single <input type="checkbox"/> widowed <input type="checkbox"/> divorced
____	Date of Birth	____
YYYY MMM DD		YYYY MMM DD
_____	Place of Birth	_____
_____	Baptismal Status	_____
____	Date of Baptism	____
YYYY MMM DD		YYYY MMM DD
_____	Place of Baptism	_____
_____	Mother's Name	_____
_____	Father's Name	_____

¹ Canon Law requires the Respondent to be contacted; therefore, the Petitioner must provide the Respondent's contact information. While the Respondent may choose not to answer any questions, an attempt must be made to contact him or her.

rcav.org/marriage-tribunal



VANCOUVER REGIONAL TRIBUNAL

4885 Saint John Paul II Way, Vancouver, BC V5Z 0G3
Telephone: (604) 683-0281

2. Marriage Details

Date of marriage:

YYYY MMM DD

Place of marriage:

City Prov./State Country

Who officiated?

Name of Officiant

Length of marriage (in months):

Places living together during the marriage. Provide cities of residence and approximate dates. Addresses are not required.

City, Prov./State Dates (from-to)

City, Prov./State Dates (from-to)

City, Prov./State Dates (from-to)

Date of divorce:

YYYY MMM DD

Place of divorce:

City Prov./State Country

Common-law only?

Yes No

3. Marriage Outside the Church Involving a Catholic

Was permission requested from the Catholic Church to allow the marriage outside the Church (called a "Dispensation from Canonical Form")?

Yes No

Was this permission granted?

Yes No

Was the marriage ever blessed or solemnized by a Catholic priest?

Yes No

If YES, where?

Name of Church/City, Prov. or State

If YES, when?

YYYY MMM DD

rcav.org/marriage-tribunal



VANCOUVER REGIONAL TRIBUNAL

4885 Saint John Paul II Way, Vancouver, BC V5Z 0G3
Telephone: (604) 683-0281

4. Children

Were there any children born of this union? Yes No

Who has custody? _____

What is being done for their Catholic upbringing? _____

For minor children, are adequate provisions being made for their material needs? Yes No

If **NO**, please explain: _____

The petitioner shall be allowed to examine the answers before signing.

Given at _____
City, Prov.

On this _____ day of _____
DD Month YYYY

Interview's Signature

Petitioner's Signature

**The processing fee is \$150.00.
Please make the cheque payable to the Archdiocese of Vancouver.**

rcav.org/marriage-tribunal



Appendix III: Affidavit of Respondent



VANCOUVER REGIONAL TRIBUNAL
4885 Saint John Paul II Way, Vancouver, BC V5Z 0G3
Telephone: (604) 683-0281

AFFIDAVIT OF RESPONDENT

I, hereby declare that I am _____ and
Name of Respondent

that I contracted a marriage with _____
Name of Petitioner

in _____ on _____ in front
Place of Marriage YYYY MMM DD

of a _____ . I also hereby declare that, to the
Type of Celebrant

best of my knowledge, this marriage has been validated or blessed
 has never

before a Catholic priest, so help me God.

Respondent's Signature

Date: _____
YYYY MMM DD

Location: _____
City, Prov.

rcav.org/marriage-tribunal

