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...
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

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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 include:
   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).**

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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 convalidation\(^3\) or a *sanatio*\(^4\), or simply that “Sanatio” was secured by one party without the other being made aware.

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\(^3\) 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.

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

✠ J. Michael Miller, CSB
Archbishop of Vancouver

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The following policy is hereby superseded:
Lack of Canonical Form Cases issued on May 24, 1984
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
present my formal petition to the Vancouver Regional Tribunal for examination of my
marriage to ____________________________, which was never
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

cav.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.*

<table>
<thead>
<tr>
<th>OATH: Do you solemnly swear to tell the truth, and nothing but the truth, in answering the following questions?</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Yes □ No</td>
</tr>
</tbody>
</table>

1. **Parties to the Union**

<table>
<thead>
<tr>
<th><strong>PETITIONER</strong></th>
<th><strong>RESPONDENT</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Name</td>
<td>Full Name</td>
</tr>
<tr>
<td>Present Address</td>
<td>Present Address</td>
</tr>
<tr>
<td>Apt # - Street Address</td>
<td>Apt # - Street Address</td>
</tr>
<tr>
<td>City, Prov. Postal Code</td>
<td>City, Prov. Postal Code</td>
</tr>
<tr>
<td>Home Phone</td>
<td>Home Phone</td>
</tr>
<tr>
<td>Cell Phone</td>
<td>Cell Phone</td>
</tr>
<tr>
<td>Email Address</td>
<td>Email Address</td>
</tr>
<tr>
<td>Marital Status</td>
<td>Marital Status</td>
</tr>
<tr>
<td>(at the time of marriage)</td>
<td>(at the time of marriage)</td>
</tr>
<tr>
<td>Date of Birth</td>
<td>Date of Birth</td>
</tr>
<tr>
<td>☐ single ☐ widowed ☐ divorced</td>
<td>☐ single ☐ widowed ☐ divorced</td>
</tr>
<tr>
<td>YYYY MMM DD</td>
<td>YYYY MMM DD</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Place of Birth</th>
<th>Place of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>YYYY MMM DD</td>
<td>YYYY MMM DD</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Baptismal Status</th>
<th>Baptismal Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Baptism</td>
<td>Date of Baptism</td>
</tr>
<tr>
<td>YYYY MMM DD</td>
<td>YYYY MMM DD</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Place of Baptism</th>
<th>Place of Baptism</th>
</tr>
</thead>
<tbody>
<tr>
<td>YYYY MMM DD</td>
<td>YYYY MMM DD</td>
</tr>
<tr>
<td>Mother’s Name</td>
<td>Mother’s Name</td>
</tr>
<tr>
<td>Father’s Name</td>
<td>Father’s Name</td>
</tr>
</tbody>
</table>

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](http://rcav.org/marriage-tribunal)
2. **Marriage Details**

Date of marriage: 

Place of marriage:

Who officiated?

Length of marriage (in months):

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

Date of divorce:

Place of divorce:

Common-law only?

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")?

Was this permission granted?

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

If YES, where?

If YES, when?
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

**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  MMM MM DD

of a ___________________________. I also hereby declare that, to the

type of Celebrant

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

before a Catholic priest, so help me God.

___________________________

Respondent’s Signature

Date:  ____________  ____________  ____________

YYYY  MMM  DD

Location:  ___________________________

City, Prov.

rcav.org/marriage-tribunal
Appendix IV: Affidavit of Witness

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

AFFIDAVIT OF WITNESS

I, the undersigned, declare under oath, that I am ________________________________ Name of Witness

and that I am a ________________________________ of ________________________________ Relationship to Party of ________________________________ Name of Party

I further declare that I have known ________________________________ Name of Petitioner

and ________________________________ Name of Respondent

as a couple since YYY MMM DD

and that I know of their attempted marriage which took place in ________________________________ City, Prov./State

on YYY MMM DD before a ________________________________ Type of Celebrant

I affirm that I □ was □ was not present at the wedding ceremony.

I hereby further declare that, to the best of my knowledge, this marriage has never been validated or blessed before a Catholic priest, so help me God.

_________________________________
Respondent’s Signature

Date: ________________________________
YYY MMM DD

Location: ________________________________
City, Prov.

rcav.org/marriage-tribunal