

# **402 The Presiding Minister And Witnesses For The Rite Of Marriage**

## **402 THE PRESIDING MINISTER AND WITNESSES FOR THE RITE OF MARRIAGE**

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### **402.1 Relationship of Presiding Minister:**

The celebration of Catholic marriage takes place in the midst of the community. The presiding minister, who is the official witness of marriage for the Church, is presumed to have a pastoral relationship with the couple.

### **402.2 Responsibility for Witnessing:**

Priests and deacons who have appropriate faculties have the responsibility for witnessing Catholic marriages.

#### **402.2.1 Clergy Incardinated in the Archdiocese of Baltimore:**

Faculties of the Archdiocese of Baltimore provide that clergy incardinated in this Archdiocese have the general faculty to witness all marriages within the parish where they are assigned when one party is of the Latin rite. If they wish to witness marriages outside their territory, the permission of the proper pastor is required for validity

#### **402.2.2 Religious Order Clergy or Externs:**

Religious order clergy or externs, who are assigned as territorial pastors or associate pastors, have the faculty to witness validly at marriages within their boundaries for parishioners or for non-parishioners provided one is of the Latin rite. If they wish to witness marriages outside their territory, the permission of the proper pastor is required for validity.

### 402.2.3 Visiting Clergy:

Visiting Clergy who have faculties to witness marriages in their dioceses, must obtain Event Faculties (see <https://www.archbalt.org/clergy-personnel-division/event-faculties/>) from the Office of Clergy Personnel and delegation to witness a marriage in the Archdiocese of Baltimore from the local pastor of the parish in which the marriage is to take place or from the Tribunal (Canon 1111) after appropriate conditions have been met. Clerics from other dioceses must comply with Archdiocesan requirements to receive Event Faculties prior to their arrival to witness a wedding or other liturgical event. **Pastors of parishes are charged with communicating this requirement to all clerics seeking such permissions.** Pastors should be certain such faculties are issued before the wedding or any other liturgical event takes place.

### 402.2.4 Deacons:

When deacons minister at a marriage celebrated at Mass, the priest who presides at the Mass is ordinarily the witness of the marriage vows. For pastoral reasons, the priest may permit the deacon to witness the marriage vows at Mass.

### 402.2.5 Non-Catholic Officiants:

Marriages involving non-Catholic officiants require a dispensation from canonical form that is to be obtained from the Diocesan Tribunal. (see Policy §404.3.1., Place of Wedding, herein)

## 402.3 Special Language and Cultural Needs:

Parishes shall be sensitive to the special language and cultural needs of those being married in the churches of the Archdiocese of Baltimore.

### **Procedure:**

When a couple cannot find an ordained clergy available to meet their special language or cultural needs, the priest should recommend that the

couple contact the Office of Marriage and Family Life to inquire about the possibility of making special arrangements for their situation.

#### **402.4 Special Care for Persons with Disabilities:**

The standard of evaluation for readiness to marriage is the same for all, including those with persons with disabilities. Pastors and others preparing couples for entrance into marriage, should keep in mind the right of all to receive the sacraments if properly disposed. Each couple is unique and the proper pre-nuptial investigation and preparation may be tailored for their situation.

##### **402.4.1 Clergy and Pastoral Life Directors:**

Clergy and Pastoral Life Directors are to evaluate readiness for marriage on an individual basis and in light of pastoral judgment based upon consultation with diocesan personnel involved with disability issues, as well as with canonical, medical and other experts.

##### **402.4.2 Expert Opinions:**

Medical and canonical opinions should be sought in determining the presence of any impediments to marriage.

##### **402.4.3 Paraplegia:**

Paraplegia in itself does not always imply impotence nor the permanence of such a condition, and it is not in itself an impediment to readiness for marriage. In case of doubt with regard to impotence, marriage may not be impeded.

#### **402.5 Non-Catholic Witnesses:**

Although it is preferable that both witnesses at a marriage ceremony in the Catholic Church be Catholic, when circumstances warrant, non-Catholic persons may serve as witnesses without the need for special permission. A witness to marriage must be over the age of 18 years and able to indicate what events transpired during the wedding ceremony. (c. 97).

## **402.6 Catholics as Witnesses at Non-Catholic Weddings:**

Catholics may serve as witnesses at weddings of friends of other faiths except where there is reason to believe that the marriage to be witnessed is invalid.

## **402.7 Compliance with Civil and Canon Law:**

Because there are a number of canonical and legal consequences to a marriage celebrated in the Church, it is important for the parish priest or deacon to process all the necessary documentation and forms required by civil law and the canon law of the Church. Accurate records and adherence to requirements for particular documentation, including dispensations, where applicable, are a serious pastoral responsibility. When a visiting priest is delegated to witness a marriage, the pastor or pastoral life director is responsible for seeing that all necessary documentation has been procured prior to the wedding.

### **402.7.1 Baptismal Certificate:**

A Catholic baptismal certificate issued within the last six months should always be obtained. Baptismal certificates from other denominations should also be obtained.

### **402.7.2 Notations:**

Catholic baptismal certificates should always be authenticated personally by one of the priests, deacons, or parish ministers. They must include an indication about the presence or absence of all notations about sacraments received, any previous marriages, religious profession, or ordination.

### **402.7.3 Photocopies:**

Photocopies of documents (i.e., baptismal and marriage certificates, divorce papers, etc.) should not be accepted unless they are certified by a priest or proper authority. Original documents must be presented and a photocopy may then be placed in the prenuptial file. (See *Sacramental Records Policy* for the Archdiocese of Baltimore)

## 402.7.4 Civil Law Requirements:

The civil requirements for marriage (e.g. a civil marriage license) must be met prior to the celebration of the marriage in the Church.

## 402.7.5 Dispensations and Permissions:

Requests for dispensations for disparity of cult and special permissions should be sent to the Tribunal in a timely fashion, accompanied by the full premarital file. Dispensation forms should be filled out fully and the names of the parties should be properly entered on the return stub. Documents to be retained in the prenuptial file include grants of dispensations or permissions, the prenuptial questionnaire, recent baptismal records, all legal documents (civil or ecclesiastical) needed to confirm the parties' freedom to marry, and witness affidavits if needed.

<b>Common Types of Permissions</b>	<b>Canon</b>	<b>Result If Not Granted</b>	<b>Who May Grant in Archdiocese of Balt</b>
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Mixed religion	c.1124, 1125	Marriage illicit	Diocesan Bishop, Vicar Bishops, Vicar General, Tribunal Vicars of the Catholic party
Marriage of Transients	c. 1071, 1°	Marriage illicit	
Marriage unable to be recognized by civil law	c. 1071, 2°	Marriage illicit	
Marriage of person bound by natural obligations toward another party or children arising from a previous union	c. 1071, 3°	Marriage illicit	
Marriage of person who has notoriously left the Catholic faith	c. 1071, 4°	Marriage illicit	
Marriage of minor child when parents reasonably opposed	c. 1071, 6°	Marriage illicit	
Ceremony by priest in non-Catholic church	c. 1118	Marriage illicit	
Ceremony in place other than a church	c. 1118	Marriage illicit	
Permission for Catholic to be married outside their parish	c. 1115	Marriage illicit	

<b>Common Types of Dispensations</b>	<b>Canon</b>	<b>Result If No Dispensation</b>	<b>Who May Grant in Archdiocese of Balto</b>
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Disparity of Worship (Catholic & Non-baptized person)	c. 1086	Marriage is invalid	Diocesan Bishop, Auxiliary Bishops, Vicar General, Tribunal delegates of the Catholic party
Disparity of Worship ad cautelum (doubtful baptism)	c. 1086	Marriage is invalid	
Consanguinity (blood relationship)	c. 1091	Marriage is invalid	
Affinity (marital relationship)	c. 1092	Marriage is invalid	
Canonical Form (not available for 2 Catholics)	c. 1127 § 2	Marriage is invalid	
Delegation	c. 1111	Marriage is invalid	Diocesan Bishops, Local Ordinary, Pastor or Associate Pastor or parish Deacon

### **402.7.6 Role of the Tribunal:**

Requests for prenuptial permissions, dispensations, or a Nihil Obstat, as well as for declarations of nullity due to lack of form should be sent to the Tribunal. The Tribunal handles all formal and documentary annulment processes and all Pauline Privilege and Privilege of the Faith Cases.

### **402.7.7 Dispensations from Canonical Form:**

Dispensations from canonical form can be granted only by the local Ordinary of the Catholic party and not by the Ordinary of the place where the marriage will be celebrated. Prenuptial papers for a marriage celebrated with a dispensation from canonical form are to be filed in the parish that made application.

## **402.7.8 Transfer of Pre-Nuptial File to Place of Marriage Outside the Diocese:**

According to traditional protocol, marriage papers for marriages to be celebrated in a Catholic Church in another diocese should be transmitted through the Tribunal of the Archdiocese of Baltimore for review and the granting of a *visum* or *nihil obstat*, who will in turn send it to the diocese where the wedding will be celebrated. (See Policy §404.18. Weddings Occurring in Another Diocese, herein)

## **402.7.9 No Fees:**

No fee is required for marriage permissions, or dispensations.

## **402.7.10 For those who have been previously married:**

- **Decree of Nullity:** If a decree of nullity of the previous marriage has been issued by the Tribunal, a copy of this should be included in the prenuptial papers. If the decree places a restriction of any kind on the party planning to enter a new marriage, no wedding date should be set before first contacting the Tribunal for additional information and consultation. (Canon 1684 §1.)
- **Lack of Form:** If not previously obtained, petitions for a declaration of nullity due to lack of form must be filled out fully and signed by both the petitioner and the parish minister.

Such petitions must be accompanied by the following documents:

- A certificate of the marriage attempted outside the Church,
- A record of the civil divorce or annulment,
- A recent baptismal certificate of the Catholic party, and
- If a baptismal certificate is not available, affidavits from two qualified witnesses testifying that the marriage in question was never validated by a Catholic priest or deacon.

No wedding date should be set for a marriage requiring a declaration of



nullity due to lack of form until after the decree of nullity has been issued.

#### **402.7.11 Record of Marriage:**

Marriages are to be recorded according to the proper procedures in the parish record book of marriages. Notification of the marriage is sent to the Church of Baptism. (See Canon 1121 and the Archdiocese of Baltimore *Sacramental Records Policy*)