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OCIA AND MARRIAGE:

Questions and Answers for Pastoral Ministers

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I. The New Norms

The new *National Statutes for the Christian Initiation of Adults* issued by the USCCB and recognized by the Apostolic See on January 9, 2024 establish the following norms concerning the celebration of marriage and the effect of a prior marriage on a person being initiated into the Catholic Church.

The new norms address three situations connected to marriage:

> 1) an inquirer has a presumably valid prior marriage that is an impediment to entering a subsequent marriage validly.
> 2) the need for divorced and remarried catechumens to resolve the issue of a prior marriage before celebrating the Rite of Election; and
> 3) for those candidates for full communion who are already married, the recording of the marriage in the register of those received into the full communion of the Catholic Church.

Here are the relevant norms:

> Norm 2: Early in the Period of Evangelization and Pre-catechumenate, a parochial minister will meet inquirers individually to hear of their "first faith" (see *The Order of Christian Initiation of Adults* [OCIA] 42, discern the continued impact of their encounter with the Lord, and discuss any issues (e.g., an irregular marriage) that could affect their eventual celebration of the Sacraments of Initiation.
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> Norm 7: While unbaptized person in irregular marriages can enter the catechumenate, they are not to celebrate the Rite of Election until they are free to enter a canonical marriage.
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> Norm 16 §3: If [the candidate for full communion is already] married, a notation of the spouse, date and place of marriage should be noted in the register. Any future marriage is also to be noted in the register.
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> *Note: Please contact the Tribunal if you have questions regarding Norm 16 §3.*

II. Practical considerations for catechumens & candidates following the OCIA process

Those interested in entering the Catholic Church either through baptism or profession of faith and other sacraments of initiation enter an inquiry period which is not defined by any programmatic timeline. Rather, during this period they clarify where they are in their spiritual journey in terms of understanding the faith and in terms of living the faith, as persons and as married persons.

During the initial inquiry period, the OCIA team should ask inquirers about failed marriages as early as possible and in a confidential and sensitive manner. They should inform them of tribunal

procedures for resolving "irregular marriage situations" (see description in V., below) in the context of the Gospel and Church's positive teaching about marriage, and not as some arbitrary bureaucratic requirements. Remember that *all* previous marriages need to be addressed in some manner.

Inquirers who have been divorced and remarried may be admitted to the initial stages of the catechumenate/candidacy, but from the start they should be informed of the possibility that they may not be admitted to baptism/reception if their marital status is not clarified or rectified. Catechumens will not be admitted to the Rite of Election if they are not free to marry since the Church presumes by their election that they will participate in the Scrutinies during Lent and be ready for baptism at the coming Easter Vigil.

If pastoral ministers suspect that the candidate/catechumen is eligible for the Petrine or Pauline privileges, or if there is reason to suspect that a previous marriage was invalid, they should contact the parish tribunal advocate or the tribunal immediately. Any marital situation that can be resolved non-judicially will be taken care of as quickly as possible. Ordinarily the tribunal cannot expedite a judicial process, nor does the fact of being in OCIA justify expediting a process to the detriment of others who have pending cases. However, in special cases (e.g., a catechumen or candidate who is terminally ill) the tribunal will take whatever measures it can to complete the process as quickly as possible.

Since not all formal annulment cases are granted affirmative decisions, pastoral ministers should prepare candidates/catechumens for the real possibility that their current marriage will never be recognized in the Church, and that they might have a moral obligation to rectify their irregular situation.

Until parties in the catechumenate receive a declaration of freedom to marry, pastoral ministers should exhort them towards chastity in their current situations and give them encouragement and support as they try to live out that difficult virtue.

III. How can we welcome inquirers into the Catechumenate?

The Church gladly welcomes those who wish to enter the Catholic Church through baptism or the profession of Catholic faith, and pastoral ministers who assist them in this effort are solicitous in their care for them. However, when faced with the task of asking them questions about prior marriages, especially so early in the OCIA process, some pastoral ministers are afraid or embarrassed to address this topic because it seems unhospitable. They rightly worry that the person will feel rejected and leave. Yet, given the teaching of the Church about marriage, divorce, and remarriage, having this conversation is critical for telling them the truth. It is unjust to set up false expectations or not tell inquirers about possible obstacles to their entering the Church until later when they may have made plans or gone to great expense to celebrate a special event in their lives. Faithfully accompanying all in the OCIA, especially those who will remain catechumens for many months before they are free to marry, is an act of Christian charity.

IV. How can we welcome Christians wishing to profess Catholic faith?

Christians in irregular marriage situations who wish to profess Catholic faith and come into "full communion" should consider all the preceding paragraphs as applying to them except where explicitly noted. One exception is that their entry into the Catholic Church can happen as soon as their irregular marriage situation is resolved. They are not bound by the structure of the liturgical dates of the Rite of Election, the Scrutinies or the Easter Vigil.

V. What is an Irregular Marriage Situation and how does it affect Inquirers?

"Irregular marriage situation" refers to any union of people who, though living as husband and wife and representing themselves as married, cannot be recognized by the Church as validly married to one another, most often because one or both parties is bound by a previous marriage.

A. Who is in one?

Anyone in a marriage in which either spouse has a previous spouse who is still alive is in an irregular marriage situation. There are some exceptions to this, but one should assume that the irregularity exists until he or she is certain there is no irregularity. It does not matter when or where the previous marriage took place, how long it lasted, what led to the divorce, or whether they had children. One should assume that it presents a obstacle which must be removed before entrance into the Catholic Church.

B. Why is it a concern?

Catholics believe that the bond of marriage is intrinsically indissoluble by anything other than death. Divorce, then, is not just immoral (CCC 2384-2385); it is impossible because the spouses cannot undo the bond they have made (CCC 2382; c. 1057). Catholics also believe that the bond of marriage is inherently exclusive, so bigamy is impossible too (c. 1056). That means that if a person gets married, gets divorced, and then tries to get married again, he or she is effectively committing adultery (Matthew 5:32) since the person is still married to their first spouse.

Therefore, for the OCIA a person living in an irregular marriage is, by outward appearances at least, living in a state of serious sin. One who remains in that situation is not ready to enter the Catholic Church. In some cases, it may be the current civil spouse of the catechumen or candidate who has a prior marriage, placing the inquirer in an irregular marriage situation that must be resolved before the inquirer enters the Church.

C. Why does a non-Catholic marriage matter?

Because the Catholic Church respects the natural right to marry, she also recognizes the marriages of all who are qualified by law to enter marriage. This includes all non-Catholics and non-Christians and explains why the Church asks about the previous marriages of those who are divorced and remarried and want to enter the Church through baptism or the profession of Catholic faith.

VI. What is an invalid marriage? Why is it invalid?

An invalid marriage is an attempt to give matrimonial consent that lacks effect. The bond of marriage does not come about despite the celebration of a wedding or exchange of vows.
A marriage can be invalid for one of three reasons, and the way of proving invalidity depends on the reason for invalidity. There can be something wrong with the way the marriage was celebrated (form); there can be something that made one or both spouses legally unqualified to get married (impediment); or there can be something essential lacking in the consent of one or both parties to marriage (consent).

VII. How can irregular situations be resolved?

Apart from leaving a currently invalid marriage, parties in irregular marriage situations that are caused by the existence of a presumably valid prior bond can be resolved by 1) proving the invalidity of the prior bond or 2) requesting its dissolution from the Church.

VIII. How can the invalidity of marriage be proved?

A. Lack of form

The Church recognizes the marriages of all couples, Catholic or not, but when a Catholic gets married, the couple must marry in the presence of a priest or deacon and two witnesses; this is called the "canonical form" of marriage. If one of the parties to the previous marriage was a Catholic, but the marriage took place in front of a civil official or a non-Catholic minister, then the marriage was not valid (unless a qualified Church authority granted a dispensation from the observance of form). However, if both parties to the previous marriage are non-Catholic, then virtually any civilly valid marriage between a man and a woman is recognized by the Church.

Proving lack of form

Lack of form cases are investigated administratively by the tribunal staff. The Petitioner provides information about the previous marriage, submits official records about the marriage, submits baptismal certificates to show that at least one of the spouses was a Catholic, and the petitioner and a witness supply testimony that the marriage was not subsequently validated in the Catholic Church.

B. Presence of an impediment

An impediment is some fact or circumstance that makes a person legally unqualified to get married. Most impediments to marriage are a matter of Catholic law, and do not apply to non-Catholics. But some impediments are part of the divine law, and they apply to everyone everywhere. Of these divine-law impediments, the impediment of a previous marriage is the most common.

Proving the presence of an impediment

A judicial trial is required to prove a marriage invalid based on an impediment. The trial is conducted by a court of tribunal judges. Usually, the presence of the impediment can be shown

through official documents like marriage certificates. If the judge determines that the impediment has been proven, the marriage is declared invalid and the spouse without a prior bond is free to contract a new marriage. If the evidence does not prove the invalidity, the marriage is presumed valid and a new marriage cannot be celebrated.

C. Defect of consent (commonly called an annulment)

In marriage, spouses consent to an indissoluble, faithful partnership that is open to procreation and the raising of children. Without that consent, there is no marriage. Sometimes consent can be lacking because one of the spouses is incapable of giving consent due to a serious psychological abnormality. In other cases, consent can be lacking because one of the spouses excludes something essential from consent. If a person consents to a marriage while simultaneously willing it not to be indissoluble, faithful, open to procreation, or directed towards the good of both spouses, he or she has not consented to marriage. And in other cases, factors like force and fear or fundamental error about one's spouse can make consent ineffectual.

Proving defect of consent

A judicial trial is required to prove a marriage invalid based on a defect of consent. The trial is conducted by the tribunal. Because the trial centers on proving something about a person's intention or state of mind, sometimes years and years ago, these trials can be very involved and time consuming. Judges question the parties, and witnesses are examined. The whole process usually takes between 18 months and two years, but it can sometimes take longer. If the panel of judges determines that the defect of consent has been proven, the marriage is declared invalid. In these cases, to prevent further invalid marriages, the tribunal sometimes prohibits the party whose consent was defective from entering a new marriage until the underlying issue has been addressed. If the judges determine that the defect of consent has not been proven with moral certainty the marriage is presumed valid, and a new marriage cannot be celebrated.

D. What effect does a declaration of invalidity have on the inquirer and a current marriage?

A declaration of invalidity overturns the presumption that the prior marriage was valid by proving that it was in fact invalid. Thus, it determines that the prior marriage was never an impediment to a subsequent marriage. If an inquirer receives a declaration of invalidity for one or more prior marriages, that person is free to marry and, in fact, was free at the time they married their current spouse. The Church then recognizes the current marriage of the inquirer as presumably valid, any appearance of irregularity is resolved, and in most cases, there is no new celebration of the existing marriage. However, if the current spouse was Catholic at the time of the wedding, and that wedding took place outside the Catholic Church, then the parties will be required to celebrate marriage or to obtain a Catholic Church declaration that it recognizes the original non-Catholic wedding of the inquirer and current spouse. Such a declaration is called a *sanatio* and can be requested by the pastor.

IX. The dissolution of a marriage (by the Church)

All marriages in which both spouses are baptized (whether Catholic or not) are sacramental marriages, and after consummation they cannot be dissolved by anything other than death.

Marriages in which either or both spouses are not baptized are good, valid, natural marriages, but they are not sacramental marriages. They cannot simply be dissolved at the will of the parties (i.e., through divorce or civil dissolution), but they can be dissolved by the favor and power of the Church or by the Pope acting with the authority of Christ.

If neither spouse was baptized at the time of the marriage and one spouse now wishes to be baptized, the marriage can be dissolved by subsequent baptism and a new marriage through the favor of a "Pauline Privilege" (described by St. Paul in 1 Corinthians 7:10-15). If only one of the spouses was baptized at the time of the marriage, the marriage may be dissolved by the Pope through the "Petrine Privilege."

Both privileges require an investigation into the circumstances of the parties. The investigation for the Pauline Privilege is done at the local level and is usually done in a few months if knowledgeable witnesses are available and it can be proved that the person's former spouse is still not baptized. The investigation for the Petrine Privilege is done in cooperation with the Holy See. This can take many months to complete. In both types of dissolution cases, the cooperation of the other spouse usually is required to obtain the necessary proofs.

Sometimes the favor is denied, usually because it remains uncertain whether the marriage is capable of dissolution.

If the favor is granted, it will be necessary for the inquirer and the current spouse to celebrate a new wedding as soon as possible and in most cases the wedding must occur before the catechumen is baptized.

X. Are there other irregular marriage situations?

Yes. Cohabiting unmarried couples and civilly married couples with one Catholic and one non-Catholic spouse who, although free to marry, married outside of canonical form are also living in an ongoing state of public sin and are not able to enter the Church. However, these situations are not as complex to resolve, because the parties are free to remedy their situation by marrying each other (or, of course, by separating).

Inquirers who are divorced but have not remarried are not prevented from entering the Church. However, their prior marriage is still presumed valid. Thus, divorced catechumens and candidates should be informed that the church does not consider them free to marry. This is especially important for those who are planning to marry in the future.

XI. Morality and law

Why does baptism or confession not forgive someone for their prior marriage and divorce? Forgiveness of sins always requires contrition and purpose of amendment. These are lacking in the situation of a person who is divorced and remarried, and who intends to continue in that later relationship, unless the prior spouse is deceased, or the Tribunal has determined that the prior marriage is not an impediment. This is based on the Church's understanding that marriage is lifelong and is not ended by divorce. The purpose of a Tribunal process is to determine whether the inquirer (or their fiancé or civil spouse) is still bound by a prior marriage or is free to marry because the prior marriage lacked something essential. See Section **V. B.,** above.

XII. Practical Steps in Accompanying Inquirers Who Are or Have Been Married

OCIA ministers need to address the effect of baptism or of reception into full communion on an inquirer's marriage. They frequently encounter situations where someone who wishes to enter the communion of the Catholic Church lives in an irregular marriage situation (see definition in Section **V**, above). This happens anytime a person is living with someone whom the Church does not recognize as their spouse. In these difficult cases, it is essential that ministers prepare these inquirers to understand Christ's teaching on marriage and to rectify their situation either by marrying, separating, or obtaining a Tribunal decision which establishes freedom to marry or recognizes a current marriage. By accompanying persons in irregular unions and addressing the reality of marriage according to the Church's understanding of Christ's teaching, you will bring them the clarity they need in order to do God's will in their lives and make an informed decision regarding baptism or reception into full communion.

The following chart is meant to assist you in knowing the practical steps to be done in a variety of situations. As always, the tribunal is happy to answer any questions you may have.

Marital Status of Inquirer and Partner	Living Situation	Is the Partner Catholic?	What should be done?
No prior spouses living	Married outside the Church	Yes	Catholic marriage, then baptism or reception
No prior spouses living	Married in the Catholic Church	Yes	Nothing; free to be baptized or received into Church and are already validly married
No prior spouses living	Living together without marriage	Yes/No	Can be baptized or received after separating or celebrating Catholic marriage
No prior spouses living	Not married or living together	Yes/No	Nothing; free to be baptized or received into Church; free to marry if they choose
No prior spouses living	Married outside the Church	No	Nothing; free to be baptized or received into Church; already validly married
Either has a living prior spouse	Married outside the Church	Yes	Tribunal process for all prior spouses, then Catholic marriage and baptism or reception into Church
Either has a living prior spouse	Living together without marriage	Yes/No	Can be baptized or received into Church after either (a) separating or (b) Tribunal process for all marriages with prior spouses followed by marriage
Either has a living prior spouse	Not married or living together	Yes/No	Free to be baptized or received into Church, but should know they are not free to marry without a Tribunal process
Either has a living prior spouse	Married outside the Church	No	Tribunal process for all marriages with prior spouses, then free to be baptized or received into Church; no new marriage needed
Inquirer has a living prior spouse	No current partner	Not applicable	Free to be baptized or received into Church, but should know they are not free to marry without a Tribunal process

Appendix:

CAUTION (about failure to resolve irregular marriage situations)
Accepting a person into the Church who is not free to receive the sacraments is a grave disservice and demonstrates a lack of pastoral care for that person. Do not assume that the person's prior marital situation can be easily resolved. Many cases take years, and some cannot be resolved. While the person awaits resolution, the person who has been baptized or received into the Church is not able to receive the sacraments and appropriately may feel that the Church has not been honest and transparent with them in welcoming them and then denying their ongoing participation in the sacraments. If the necessary proofs cannot be found, the person may remain in an irregular situation, and denied ongoing access to the sacraments, until their prior spouse dies.

Further Questions – who to contact
Questions about the status of a prior marriage and the freedom of a catechumen or candidate to enter the Church should be addressed to the pastor, the parish tribunal advocate, or the Tribunal. **The Tribunal can be reached at 206-382-4830 or Tribunal@seattlearch.org.**

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