

§800 MARRIAGE DISPENSATIONS AND PERMISSIONS

Marriage and the family are the foundation of civilization and the basic building block of human society. Although so basic, marriage is constantly affected by changes in civil society as well as by theological development. Therefore, it is not surprising that so many canons in the Code of Canon Law pertain to the Sacrament of Matrimony, more than almost any other topic.

While theological principles and sacramental practices should be clear and constant, the human factor demands that the Church pay attention to special circumstances which have impact on the general observance of the law. This the Church does, in part, through dispensations and permissions.

§801 DEFINITIONS

- a) Dispensation: A dispensation is an act of excusing from the observance of a law, which is granted by legitimate authority when there are special circumstances to justify non-observance of the law in a particular case. Dispensations in general are addressed in Book I, §700. Marriage dispensations refer to impediments which may make a marriage either invalid or illicit.
- b) Permission: In general, a permission is an authorization of an action. In the new Code of Canon Law, in regard to marriage, a distinction is made between permission and dispensation. In the previous Code, all mixed marriages, whether of Disparity of Cult or Mixed Religion, required a dispensation from the proper authority. The new Code simply states that marriages of mixed religion are prohibited without “permission” of the proper authority.
- c) Disparity of Cult: Disparity of Cult is the impediment to a marriage between a Catholic and a non-baptized person. This impediment renders such a marriage invalid unless a dispensation is granted by the proper authority.
- d) Dispensation from Canonical Form: Catholics are required to marry in a Catholic ceremony before a priest or deacon, in other words, to observe the canonically prescribed form of liturgical ceremony. However, when sound ecumenical or inter-faith reasons are present, a dispensation from observance of the Catholic marriage rite may be granted for a Catholic to marry a non-Catholic in a non-Catholic ceremony. Such a dispensation is required also for liceity for a Catholic to marry in an Orthodox Church ceremony and is required for validity to marry in any other non-Catholic ceremonies.

- e) Mixed Religion: Mixed religion is an impediment to a marriage between a Catholic and a baptized non-Catholic. This impediment renders the marriage illicit (but still valid) unless a permission is given by the proper authority.

§802 AUTHORITY

802.1. Policy The Vicar Judicial, Delegate from Matrimonial Affairs and other staff, when delegated by the Bishop, shall have the authority to grant dispensations from disparity of cult, dispensations from canonical form and prenuptial permissions.

Procedures

For administrative reasons and record keeping purposes, dispensations and permissions noted above are to be granted through the Office of the Tribunal.

802.2. Policy Pastors, parochial vicars and parochial administrators or priests incardinated in the Diocese shall have the authority to grant permission for marriage of mixed religion, but only in those cases where there is proof of baptism for both parties and neither party has been previously married, even if invalidly. If, however, there is no proof of baptism for either party and/or either party has been previously married, then the permission must be granted by the Chancellor or a designated member of his staff.

Procedures

Permissions for marriage of mixed religion, which are granted at the parish level in accordance with the policy 802.2, are not sent to the Office of the Tribunal to be recorded. They remain in the parish to be entered in the marriage register and included in the total number of permissions granted listed in the Annual Parish Report.

Note

All cases involving previous marriages or lacking proof of baptism are to be sent to the Tribunal for permission to marry.

§803 DISPENSATION PROCESS FOR DISPARITY OF CULT AND CANONICAL FORM

803.1. Policy Ordinarily dispensations shall not be granted without the filing of a formal application with the Tribunal.

Procedures

- a) **Required Documents.** All requests for dispensations should be accompanied by the full prenuptial file and be sent to the Office of the Tribunal at least three weeks prior to the marriage. This file includes the prenuptial questionnaire, recent baptismal records, all civil or ecclesiastical documents needed to confirm the parties' freedom to marry, and witness affidavits, if needed. The contents of a complete prenuptial file are described in "Commentary on Prenuptial Forms", issued by the Office of the Chancellor.
- b) **Canonical Reasons.** The canonical reasons for requesting a dispensation must be indicated on the application form since a dispensation is not granted unless just and reasonable cause is shown (Canon 1125).
- c) **Promises.** In cases of a Catholic marrying a non-Catholic or a non-practicing Catholic, the application form must indicate that the Catholic party made the required promises. The application form may include the written promises, or it may include a statement that the promises were made orally. (See Canon 1125)
- d) **Non-Catholic Ceremony.** If the Catholic party wishes to be married in a non-Catholic ceremony, the Catholic party must complete the application section for a dispensation from canonical form. This section is never to be used to record a Catholic ceremony that will take place in another parish or diocese.

803.2. Policy Dispensations and permissions shall be granted or denied in a timely fashion.

803.3. Policy Ordinarily, all decisions granting or denying dispensations and permission shall be issued in writing. If in extraordinary circumstances a dispensation or permission is granted orally, it shall be confirmed in writing.

803.4. Policy If the marriage is to take place in the Diocese of Springfield in Illinois and the Catholic party resides in another Diocese, the Diocese to which the Catholic party belongs must grant the dispensation.

Procedures

For marriages within the Diocese which require a dispensation from another diocese, the complete prenuptial file together with the dispensation application should be sent to the Office of the Chancellor for transmittal to the proper Diocese.

§804 NIHIL OBSTAT

804.1. Policy The *Nihil Obstat* of the Office the Tribunal is required for marriages involving either a convalidation or a declaration of nullity of a previous marriage.

Procedures

If a *Nihil Obstat* is required, the complete prenuptial file with all necessary documentation is to be sent to the Office of the Tribunal with the request.