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Department of Canonical Services**

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GUIDELINES FOR MARRIAGE DISPENSATIONS AND PERMISSIONS

IN

THE DIOCESE OF PORTLAND

INTRODUCTION

In canon law, a dispensation is defined as a relaxation of a merely ecclesiastical law in a particular case (see c. 85). All ecclesiastical laws have as their ultimate aim the salvation of souls. Though laws are applied to individuals, they must be general to be effective, practical, and fair. Therefore, when particular cases arise in which the application of a law may not be in the best interest of an individual or a couple, a dispensation may be appropriate.

When granting a dispensation, several factors must be considered. Among these factors are the particular circumstances of the individual case. Additionally, the reasons given for a dispensation must be balanced against the importance of the law:

Canon 90 §1: One is not to be dispensed from an ecclesiastical law without a just and reasonable cause, after taking into account the circumstances of the case and the gravity of the law from which the dispensation is given; otherwise the dispensation is illicit and, unless it is given by the legislator himself or his superior, also invalid.

Since the Church's laws promote what is good, a dispensation can only be granted when there are positive reasons to believe that the couple's spiritual good will benefit from the proposed marriage. In other words, it must be apparent that the good of following the law is outweighed by the good of not following the law.

One common application for dispensations in this diocese concerns the Impediment of Disparity of Cult. Permissions for Mixed Religion marriages are also sought often and follow the same principles. As mixed marriages are becoming increasingly common, it is necessary to be mindful of the reason Catholics are bound to marry Catholics (see cc. 1086, 1124). Marrying a non-Catholic may present serious risks to the Catholic party's spiritual welfare, his or her obligation to raise the children in the Faith, and the marriage itself. These risks sometimes increase in the marriage of a Catholic and an unbaptized party. In a mixed marriage, it is important to consider the religion of the non-Catholic, whether baptized or not. Some religions profess beliefs and attitudes that are quite contrary or hostile to the Catholic Faith, while others are comparatively more compatible.

Dispensations from the canonical form of marriage sometimes accompany petitions for Dispensations from Disparity of Cult or Permission for Mixed Marriage. Even in a mixed marriage, the Catholic party is still bound to observe the canonical form of marriage unless he or she has been granted a dispensation. Indeed, canonical form provides marriage with the appropriate liturgical and ecclesial context, which befits the sanctity and religious nature of marriage. Consequently, the reasons for a Dispensation from Form must be serious, and ideally ought to take into account the importance of preserving the religious character of the celebration.

At times the law does not strictly forbid a marriage but instead creates conditions for the lawful celebration of the marriage; this involves permission, not dispensation. The circumstances warranting permission usually pertain to situations when the couple chooses to marry in a way not preferred by the law (e.g., choosing a Protestant church as the place of marriage). Though not as serious as dispensations, such permissions still require an evaluation of the circumstances of the marriage, the good of the couple, and the intent of the law. The one preparing the couple for marriage must verify that just reasons exist to allow the marriage to occur and that any conditions established by law or custom have been fulfilled.

It is important to remember that laws are not arbitrary. Often, the good of the individual or couple is actually best served by laws created for the common good. Because marriage is so significant to the order of society, the Church has created legislation to better protect and promote marriage. A dispensation or permission can only be granted justly when both the law and the good of the individuals are respected.

The Diocesan Norms on Marriage, which were promulgated in 1988 and revised in 1994 and 2010, remain in force as the primary diocesan norms on dispensation and permissions. Thus, the following Guidelines, which have been produced for the benefit of all priests and deacons in the diocese, aim to clarify and elaborate upon selected issues pertaining to the procedure for granting dispensations and permissions.

Rev. Msgr. Paul F. Stefanko, J. C. L.
Judicial Vicar

GUIDELINES

1. Those Involved in Granting Dispensations and Permissions

a. The process of granting a dispensation or permission is a partnership between those conducting marriage preparation and the Department of Canonical Services. Those preparing the couple for marriage are well-placed to evaluate the parties' readiness for marriage, while the Department of Canonical Services is equipped with the legal expertise to judge the importance of the law being dispensed and/or whether the conditions for granting permission have been met.

b. Importantly, submitting the dispensation/permission application entails more than signing the form. It is hoped that the need for a dispensation or permission will facilitate a discussion about the reasons for the dispensation or permission and how it will be spiritually beneficial to the couple. Because dispensations and permissions aim to promote the spiritual good of the couple, the pastoral judgment of those who have received sacred orders is an invaluable asset to the Department of Canonical Services in evaluating the appropriateness of a dispensation or permission in a given case. Since the ordained are specifically entrusted with the care of souls, only priests or deacons may submit applications for dispensations or permissions.

c. Thus, the priest or deacon who signs the form should be involved in the marriage preparation of the couple. Although it is not uncommon for parish life coordinators or other lay persons to assist with aspects of marriage preparation, those couples in need of dispensations or permissions warrant special attention, which properly belongs to the ministry of the ordained. While marriage preparation for such couples need not be conducted solely by clerics, the discussion and evaluation of the appropriateness of a dispensation or permission is best conducted by a priest or deacon who is familiar with the couple and their circumstances. The assistance of qualified lay persons in other aspects of the marriage preparation process remains an important ministry, which is, by no means, discouraged.

d. In the case of a Dispensation for Disparity of Cult or Permission for Mixed Religion, the "Promise and Declaration of the Catholic Party", regarding his or her faith and intention to raise the children Catholic, should be witnessed only by a priest or deacon, in accord with the particular norms established by the Bishops' Conference in 1970 and confirmed in 1983. Ideally, the priest or deacon will challenge the couple to consider the impact of religious differences in married life.

2. Reasons for Dispensations or Permissions

a. Each application form for a dispensation or permission contains a section in which the reason for the request is listed. In this section, the presenting priest or deacon must convince the one granting the dispensation or permission that relaxing the law or granting

permission in a particular case will spiritually benefit the couple. Therefore, one-word responses to this section are strongly discouraged.

b. On the current application form, a list is offered in order to provide common examples of just reasons for dispensations and permissions. This list is not exhaustive, and priests and deacons should feel free to provide other reasons as well. Moreover, the presence of a certain reason on the form does not signify that it is always an appropriate reason. For example, convalidation might be considered an unacceptable reason if the parties are living in a failing or abusive marriage. Under other circumstances, however, convalidation may be a just cause, if, for example, the Catholic party has children and wishes to participate in the sacramental life as a family.

3. Requirement to Submit Proof of Baptism

a. When a Catholic marries a *baptized* non-Catholic, the priest or deacon submitting the application for permission normally must include proof that the non-Catholic was baptized with water and the Trinitarian formula. If possible, he should submit a certificate of baptism. Otherwise, the testimony of one person is sufficient. If a person was baptized as an infant, the testimony of a relative who would have been present suffices, while if the person was at least seven years old at the time of his or her baptism (and remembers it), his or her testimony suffices. If the non-Catholic's baptism cannot be proven by any of the above-mentioned means, the priest or deacon should request a Dispensation from Disparity of Cult *ad cautelam*, in addition to Permission for Mixed Religion.

b. When a Catholic marries a non-baptized person, no additional information is needed about the non-Catholic person.

4. Importance of Verifying Each Party's Current Residence

Regardless of where the parties live, application forms should be submitted to the Department of Canonical Services. Nevertheless, verifying the Catholic party's current residence is important. Indeed, the Department of Canonical Services can only grant dispensations or permissions within its jurisdiction; thus, at times, requests for dispensations or permissions will be forwarded to another chancery (e.g. if the parties do not live in Maine). If a competent authority from outside the Diocese is asked to grant the dispensation or permission, more information may be requested from the one who submitted the application.

5. When to Submit the Application

a. Since the procedure to grant dispensations and permissions entails an added layer of marriage preparation, it is important to identify those couples needing dispensations and permissions early in the preparation process.

b. In the case of mixed marriages, a dispensation or permission is granted with the assumption that the couple has discussed their religious differences privately and in the

presence of the priest or deacon preparing them. Therefore, once the priest or deacon has gathered enough information to make a pastoral judgment, he should submit the application.

c. Any permissions or dispensations regarding the place, time, or form of marriage should be submitted as soon as possible and before the couple has made definite plans and commitments to reception halls, caterers, churches, etc.

d. If, for various reasons, a dispensation/permission application cannot be submitted by mail with enough time remaining before the wedding, as an exception, the permission or dispensation can be granted orally, and a written record will be kept at the Chancery and sent to the place of marriage. In such cases, priests or deacons should contact a vicar forane, the Chancellor, the Judicial Vicar, a vicar general, or the Bishop.