



Procedures for OFS Members Who Enter an Invalid Marriage or a Same Sex Civil Union.¹

1
2 Members of the OFS who enter an invalid marriage or a same sex civil union invalidate
3 their profession promise.

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5 The purpose of this document is to give step-by-step instructions for the procedures to be
6 followed when a member of the Secular Franciscan Order (OFS) subsequently enters an
7 invalid marriage or same-sex civil union, or when it is discovered that an invalid marriage or
8 same-sex civil union existed before profession.

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11 Note: Entering into an invalid marriage or a same-sex civil union are public statements
12 which are opposed to the teachings of the Catholic Church, and therefore, not in keeping
13 with the Rule and Constitutions of the Secular Franciscan Order. Both are impediments to
14 entering the OFS. If someone already committed to an invalid marriage or a same-sex civil
15 union becomes professed, the profession is by definition invalid. See “**Part Six: Invalid**
16 **Profession of a Member in an Invalid Marriage or Same Sex Civil Union,**” below.
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Part One: Membership in the OFS

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21 Before addressing the issue with the individual concerned, it is important to be informed
22 and understand how entering invalid marriage or a same sex civil union is a commitment
23 contrary to a commitment to the OFS.
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25 Consider the following:

- 26 1. Standing in the Church
- 27 2. OFS Legislation and Franciscan Sources
- 28 3. National Guidelines

1) Standing in the Church

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31 Church teaching on this matter is clear.² However, it is important to remember that an

¹ These states of life are impediments to entering the OFS. When discerning a vocation to the OFS, it is critical that Fraternity Councils consider the conditions for membership in the OFS General Constitutions (GC) 39 .2, and ask, “Is this person of good moral standing?” and “Is this person’s marriage valid?” For more on this topic see *Belonging to the Secular Franciscan Order: Implications for Membership in the OFS for Persons in Invalid Marriages or Same-Sex Civil Unions*, OFS-USA Website.

² Catechism of the Catholic Church, 1649-1650

32 individual's standing before God and in the Church is not the question. The matter at hand
33 is membership in the Secular Franciscan Order.
34

35 "Even if their pastor has made a pastoral decision and allows them to publicly
36 receive the Eucharist and participate fully in parish life, that pastoral decision does
37 not mean that we, as the Secular Franciscan Order, can make an allowance. As an
38 Order in the Church, the OFS is bound by Church law. Keep in mind that
39 membership in an Order is not required for salvation."³
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41 **2) OFS Legislation and Franciscan Sources**

42 There are certain conditions for admission to the OFS which also apply to continuing
43 membership. Refer to the General Constitutions (GC) 39.2:
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45 General Constitutions 39.2:

46 "Conditions for admission are to profess the Catholic faith, to live in communion with
47 the Church, to be of good moral standing, and to show clear signs of a vocation."
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49 Francis, The Earlier Rule

50 "Let all the brothers be, live, and speak as Catholics. If someone has strayed in
51 word or in deed from Catholic faith and life and has not amended his ways, let him
52 be expelled from our brotherhood." (*The Earlier Rule*: Chapter 19, 1-2)
53

54 **3) National Guidelines**

55 The following National Guidelines provide excellent formation on this subject, and can be
56 found on the OFS-USA Website:
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58

- 59 • **Belonging to the Secular Franciscan Order: Implications for Membership in**
60 **the OFS for Persons in Invalid Marriages or Same-Sex Civil Unions**
- 61
- 62 • **Clarification on Same Sex Attraction and Sexual Identity Issues**
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64

65 **It is not possible to remain in the OFS while being part of an Invalid Marriage**
66 **or Same-Sex Civil Union.** If the OFS member chooses to continue in their invalid
67 marriage or same-sex civil union, one of the following needs to take place:
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- 69 a) the member must definitively withdraw from the OFS, following the
70 procedure in GC 58.1.
- 71
- 72 b) the member is dismissed from the OFS by the Regional Executive
73 Council (REC) at the request of the Local Fraternity Council, in
74 accordance with GC 58.2 and 58.4.
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³ See *Clarification on Same Sex Attraction and Sexual Identity Issues*, CNSA July 2020, OFS-USA Website.

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Part Two: Obligation of the Local Fraternity Council

Members of the OFS who enter an invalid marriage or a same sex civil union invalidate their profession promise. It is the responsibility of the local fraternity council to address this situation.

GC 58.2: "In case of serious causes, provided that they are external, imputable, and juridically proven, the Minister of the local fraternity and the Spiritual Assistant, with charity and prudence, discuss the matter with the brother or sister concerned, and keeps the Council informed. The brother or sister is given time to reflect and to discern, eventually with the help of an external and competent expert...."

This obligation extends to each individual member of the council:

"Each member of the local fraternity council has a significant role and responsibility, including the spiritual assistant. In this case they must be courageous enough to announce the truth and enter into a dialogue with the brother or sister on the future, to determine if he or she is willing to give up a sinful way of life or should leave the OFS." *General Minister, Tibor Kauser OFS 8 August 2020*

To be clear, if the OFS member does not voluntarily withdraw from the Order, the local council must request the council of the higher level to dismiss them. This request must be done according to the procedure mandated in GC 58.2.

Addressing the situation must start in the local fraternity. It is not the responsibility of those serving on the regional or national level. This is in adherence to the principle of subsidiarity. (See GC 33.2 for an explanation of "subsidiarity.")

The local council may seek assistance from the Regional Executive Council (REC) in this matter, but the GC requires that the process must begin at the local level. The REC does have the responsibility, however, to guide the local fraternity council, help them see their obligation clearly, and encourage them to do what is theirs to do.

Note: If a local or Regional Spiritual Assistant disagrees with or opposes the dismissal of the individual, the council should consult the National Executive Council (NEC) and/or the Conference of National Spiritual Assistants (CNSA).

Part Three: Local Fraternity Council Responsibilities

This section gives step-by-step instructions for the procedures to be followed by the local fraternity. Please reach out to the Regional or National Executive Council for guidance as needed.

120 Read through the entire procedure before you begin. Each step must be followed
121 and documented.

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123
124 **NOTE:** Minutes must be kept for each meeting of the council where the situation of the
125 OFS member concerned is addressed. Refer to 7A, Required Documentation, for what
126 must be included in minutes.
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129 In accordance with GC 58.2. the following steps must take place:
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131
132 **1) Local Fraternity Council Meets to Address the Situation**
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- 134 During this meeting the local fraternity council members:
- 135 a. discuss the information in Part One, seeking outside guidance as needed to address
136 any questions or concerns.
 - 137 b. determine a time and appropriate place for the OFS member concerned to meet
138 jointly with the Minister and the Spiritual Assistant.⁴
 - 139 c. decide how to notify the individual and invite them to the meeting.
 - 140 d. set a deadline for the reflection period.
 - 141 e. identify potential external and competent expert(s) to meet with the individual.⁵
 - 142 f. discuss how and when to speak with the members of the fraternity about this
143 situation, taking into account that some members may already be aware of it.

144
145 **2) Initial Meeting with the OFS Member Concerned**
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147 *“And if anyone seriously neglects the form of life all profess, the minister, or others who may
148 know of it, are to admonish that person. Those giving the admonition should neither
149 embarrass nor speak evil of the other, but show great kindness. Let all be carefully attentive
150 not to become angry or upset because of another’s sin. For anger and disturbance impede
151 love in themselves and in others.”⁶ (Cf. Francis, Admonitions, 11)*
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- 154 During this meeting, the Minister and Spiritual Assistant jointly:
- 155 a. with charity and prudence, explain why this situation must be addressed.
 - 156 b. provide the OFS member with copies of the two National Guidelines mentioned in
157 Part One. If circumstances allow, take the time to read through these documents
158 with the individual to help them understand the reasons for this intervention.
 - 159 c. inform the OFS member that in accord with the OFS Rule and Constitutions, they
160 must choose which commitment to honor. If they wish to remain in an invalid

⁴ If the local fraternity Spiritual Assistant is not available, contact the Regional Spiritual Assistant for assistance.

⁵ An “external and competent expert” (GC 58.2) might be a Regional Spiritual Assistant, a knowledgeable and trusted OFS member from the Region, a spiritual director or clergy member who understands the nature of belonging to the OFS.

⁶ The Rule and Life of the Brothers and Sisters of the Third Order Regular of St. Francis, Chapter 7, Art. 24.

- 161 marriage or same-sex civil union, they must voluntarily withdraw from the Order or
162 be dismissed.
- 163 d. listen to the OFS member's response.
 - 164 e. ask the OFS member to reflect on this matter, and prayerfully discern their course of
165 action.
 - 166 f. encourage the OFS member to seek pastoral guidance from a competent impartial
167 counselor and/or a person who may be able to assist in this manner and provide
168 them with some suggestions of who to contact.
 - 169 g. suggest a timeframe for a period of reflection, setting a deadline for the OFS
170 member's response.
 - 171 h. discuss how this matter will become known to the members of the local fraternity.
 - 172 i. assure the OFS member that the Minister and Spiritual Assistant are available for
173 questions or further discussion.

174 3) Report of Initial Meeting

175 The Minister and Spiritual Assistant provide a brief written report to the local fraternity
176 council regarding the meeting. The report must include the date, the names of those
177 who were present, a brief description of the result of the conversation and the deadline
178 given for a response. If necessary, the council meets to review the report and discuss
179 the meeting. A copy of the report is kept on file.
180

181 4) Response from the Member Concerned

182 Once the deadline for the time of reflection has passed, the minister or Spiritual
183 Assistant contacts the OFS member for their decision. If the member wishes to remain
184 in the invalid marriage or same-sex civil union, the minister or Spiritual Assistant
185 reminds them of the consequences of that decision (withdrawal or dismissal from the
186 Order), and asks them to notify the council in writing by a set date regarding their
187 willingness to withdraw.
188

189 **If the member opts to withdraw**, they should send a letter to the fraternity minister,
190 stating their intention to definitively withdraw from the Order.
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192 **If the member is unwilling to withdraw from the Order**, they should send a letter to
193 the fraternity minister, stating their refusal to withdraw from the Order.
194

195 Upon receipt of the written decision of the member, the council meets to act on the
196 matter (step 5).
197

198 **If there has been no written response from the individual**, the council sends the
199 individual a letter by certified mail stating that (1) prior to the deadline, no written
200 statement was received and (2) unless the council hears from them within one week,
201 the council will proceed with a vote on dismissal.
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203

204 Refer to 7B for what to include in an official letter

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206 **5) The Local Fraternity Council Meets to Act.**

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208 **If the member has chosen to withdraw, the council:**

- 209 a. notes the receipt of the letter with the request to withdraw in the minutes of the
210 meeting.
- 211 b. sends a letter to the OFS member acknowledging their definitive withdrawal from the
212 Order.
- 213 c. sends a letter to the REC to inform them of the definitive withdrawal.
- 214 d. notes the withdrawal in the fraternity register and the national database.
- 215 e. attaches copies of all letters to the minutes of the meeting.
- 216 f. keeps all documentation related to the withdrawal on file.
- 217 g. the process is complete.

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219 **If the member refuses to withdraw, the council:**

- 220
221 a. notes the receipt of the letter with the refusal to withdraw in the minutes of the
222 meeting.
- 223 b. sends a letter to the OFS member acknowledging their refusal to withdraw and
224 informing the member that the council will proceed with a vote to request their
225 dismissal.
- 226 c. attaches copies of both letters to the minutes of the meeting.
- 227 d. proceeds with a vote to request dismissal.

228
229 **If there has been no response to the certified letter from the council (step 4
230 above), the council:**

- 231
232 a. notes the continued lack of written response.
- 233 b. attaches a copy of the certified letter to the minutes of the meeting.
- 234 c. proceeds with a vote to request dismissal.

235
236 Refer to 7B for what to include in an official letter

237
238 **6) The Vote to Make a Request for Dismissal**

- 239
240 a. The council decides by secret ballot whether to request dismissal of the individual
241 concerned. The decision is noted in the minutes of the meeting.

242
243 Again, the General Constitutions guide this process:

244
245
246 *“ ... the council of the fraternity requests the council of the higher level to dismiss the*
247 *sister or brother from the Order. The request must be accompanied by all the*
248 *documentation relative to the case....” GC 58.2*

251 **Important Clarifications:**

- 252
- 253 ➤ *It is not the local fraternity's role to dismiss the member, rather it is their role to make*
- 254 *the request for dismissal to the council of the higher level.*
- 255
- 256 ➤ *It is not the local fraternity's role to notify the member concerned. The notification of*
- 257 *dismissal is sent by the National Executive Council after they confirm the dismissal.*
- 258 *(See GC 58.4.)*
- 259
- 260
- 261 b. If a majority of the council has agreed to request the dismissal, a written request is
- 262 made in a letter to the next higher level, in this case the REC. The letter includes
- 263 the following information: *(See also 7B, below)*
- 264
- 265 • the discovery of the situation, including the date and circumstances by which this
 - 266 came to the attention of the fraternity,
 - 267 • a brief explanation of why the dismissal of the OFS member is being requested,
 - 268 for example: "N.____, who was professed in the OFS on (date) has subsequently
 - 269 made a public commitment to a same-sex civil union or is in an invalid marriage",
 - 270 • assurance that steps 1-5 above have taken place,
 - 271 • the request that the REC issue a decree of dismissal,
 - 272 • the signature of the local minister.
- 273
- 274 c. A copy of the letter is attached to the minutes of the council meeting.
- 275
- 276 d. The letter is sent to the Regional Minister, along with the required documentation,
- 277 noted in step 7 below.

278 **7. Required Documentation**

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280 **The following documentation must be included with the request for dismissal:**

- 281
- 282 a. Minutes of council meetings where this issue was addressed (steps 1, 5 and 6).
 - 283 b. The written report of the initial meeting between the OFS member concerned, the
 - 284 minister and the Spiritual Assistant (step 3).
 - 285 c. Confirmation that consultation with an external and competent person has taken
 - 286 place.
 - 287 d. Copies of all letters, both to and from the individual concerned.
 - 288 e. Date(s) of any subsequent contact(s) with the OFS member concerned (this record
 - 289 is a simple list noting the date and the reason for the contact).
- 290

291 **7A. All meeting minutes must include:**

- 292
- 293 • the date and place of the meeting,
 - 294 • whether it was an in-person or virtual meeting,
 - the names of those present, excused, or absent,

- 295 • brief, factual descriptions of each action taken, (Note: details of discussions are
296 generally not included, although important supportive points may be helpful.)
297 • the date on which the minutes were approved or ratified, *including the list of those*
298 *who agreed to the approval.*

299

300 **7B. Official letters must include:**

- 301 • the date written,
302 • to whom it is addressed, and to whom it is copied,
303 • the purpose of the letter,
304 • a brief narrative stating the situation,
305 • any requested action,
306 • dates and names of those present for any meetings that are mentioned in the
307 document,
308 • a written signature.

309

310 NOTE: Official letters are to be brief and factual, and not editorial in nature.

311

312 **Part Four: Regional Executive Council Responsibilities**

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314 Upon receipt of a request for dismissal from a local council, the REC follows the steps
315 outlined in the General Constitutions (GC) 58.2, detailed below.

316

317 *GC 58.2 "...The council of the higher level (the Regional Executive Council) will issue the*
318 *decree of dismissal after having collegially examined the request with the relative*
319 *documentation and having verified observance of the directives of the Law and of the*
320 *Constitutions."*

321

322 **Important Clarification:**

323 ➤ *It is the REC's role to issue the decree and send it to the National Executive Council*
324 *for confirmation. (See GC 58.4.) However, it is not the REC's role to notify the*
325 *member of the dismissal. The notification of dismissal is sent by the National*
326 *Executive Council after they confirm the dismissal.*

327

328 **1)** The REC meets to consider the request for dismissal, noting the reason for the request.
329 They examine the documentation ensuring that all the steps listed in Part Three: Local
330 Fraternity Council Responsibilities were followed and documented properly. If there are
331 any questions or omissions, they contact the local fraternity council to clarify the matter.

332

333 **2)** The REC votes by secret ballot on whether they agree to the request for dismissal. The
334 decision is noted in the minutes.

335

336 **3)** If the REC does **not** approve the request for dismissal, all documentation is returned to
337 the local fraternity council, along with a letter stating that:

338

- 339 (1) a Decree of Dismissal was **not** issued,
340 (2) the details of any action that should be taken by the local fraternity council.

341
342 **4)** If the REC agrees to the request for dismissal, it issues the Decree of Dismissal in a
343 manner similar to the example below. The Regional Minister signs the Decree and
344 sends it, along with copies of all required documentation, to the National Executive
345 Council.

346 **DECREE OF DISMISSAL**

347
348 The Regional Executive Council of (Name of Region) Region of the Secular Franciscan Order,
349 having received and examined the request for the dismissal of N. ___ from (Name of Local
350 Fraternity) Fraternity of the Secular Franciscan Order, has found this request to be in conformity
351 with the legislation of the Secular Franciscan Order and with the requisites of the life of a Secular
352 Franciscan.

353
354 **Thus, through this Decree, the Regional Executive Council, meeting on (__Date__)**
355 **dismisses N. _____ from the Secular Franciscan Order.**

356
357
358 _____
359 Signature of Regional Minister

360
361 **The National Executive Council of the United States, meeting on (__Date__)**
362 **confirms the dismissal of N. _____ from the Secular Franciscan Order**

363
364
365 _____
366 Signature of National Minister

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370 **Part Five: Role of National Executive Council**

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372 The National Executive Council (NEC) meets to review the documentation and vote on the
373 decree of dismissal.

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375 **If the NEC confirms the decree:**

- 376
377 a. The National Minister signs the Decree of Dismissal. A copy of the decree is
378 attached to the minutes of the meeting.
- 379 b. The original Decree and all documentation are returned to the REC, along with a
380 letter, addressed to both the REC and the local fraternity council stating that (1) the
381 Decree of Dismissal was confirmed, (2) the fraternity register and the national
382 database must be updated accordingly, and (3) the Decree and all documentation
383 must be kept on file.
- 384 c. The NEC sends a letter to the individual concerned to notify them of the dismissal,
385 copying all parties involved. This letter should (1) be brief, (2) include a copy of the

386 Decree, (3) refer the individual to GC 59, regarding the right to appeal, and (4) state
387 that if they wish to appeal, they should do so by sending a letter to the National
388 Secretary within three months. (Provide the address for the National Secretary.)
389 d. The NEC keeps copies of the above letters on file.

390
391

392 **If the NEC does not confirm the decree:**

393 The original Decree and all documentation are returned to the REC, along with a letter,
394 addressed to both the REC and the local fraternity council stating that:

- 395 (1) the Decree of Dismissal was **not** confirmed,
396 (2) the details of any action that should be taken by the REC or the local fraternity
397 council.

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**Part Six: Invalid Profession of a Member in
an Invalid Marriage or Same-Sex Civil Union**

403 It may happen that, due to oversight of profession requirements, an individual who has
404 previously made a commitment to an invalid marriage or same sex civil union is allowed to
405 participate in either the Rite of Admission, or the Rite of Profession in the Secular
406 Franciscan Order. In these situations, since the conditions for membership in the Order
407 (GC 39.2) were not met, the admission or profession is deemed invalid.

408 Upon becoming aware of such a situation, the local fraternity council has the responsibility
409 to address the issue as follows:

- 410 **1)** The local fraternity council meets to discuss the issue and arranges a time for the
411 Minister and Spiritual Assistant to jointly meet with the individual.
412
- 413 **2)** The Minister and Spiritual Assistant meet with the individual. During this meeting the
414 Minister and Spiritual Assistant:
415 a. **with charity and prudence**, explain why the admission or profession was not valid,
416 making it clear that, in accord with the OFS Rule and Constitutions, the individual is
417 not a member of the OFS, and never has been.
418 b. inform the individual that they will receive a letter from the fraternity regarding this
419 matter.
420 c. encourage the individual to seek guidance and pastoral direction and assure them of
421 the prayers of the fraternity.
422
- 423 **3)** The local fraternity council, in a follow-up meeting, confirms the invalidity and sends a
424 letter to the individual stating that the admission or profession was invalid. Copies of
425 this letter are sent to the REC and attached to the minutes of the meeting. The
426 fraternity register and the national database are updated accordingly.
427
- 428 **4)** Discuss how this matter will become known to the members of the local fraternity.
429

430 **5)** Discuss any steps that must be taken to ensure that all prospective members meet the
431 conditions for admission and profession.

432
433

**Consult the Regional or National Executive Council if there are
any questions about these procedures.**