



*The European Parents' Association
of the European Schools*

ALICANTE, BERGEN, BRUXELLES I, II, III, IV

FRANKFURT, KARLSRUHE, LUXEMBURG I, II,

MOL, MÜNCHEN, VARESE.

MEMO ON BAC SESSION 2020

Dear S7 parents,

As you know, the final marks for the Bacc session 2020 will be communicated to all students on Monday, June 22. We would like to take this opportunity to congratulate all students on this important achievement and wish them all the best for the coming years!

As a direct consequence of the COVID-19 pandemic, exceptionally this year the written and oral exams for the European Baccalaureate (Bacc) due to take place in

May and June 2020 have been scrapped and new regulations have been adopted by the Board of Governors (BoG) to compensate for this¹.

Based on the exceptional rules approved by the BoG in April 2020 the final Bacc mark is calculated as follows:

- 60% from the Pre-Bac marks (B marks), 20% from the A1 marks and 20% from the A2 marks;
- all the subjects are weighted evenly².

Moderation of the marks, based on a statistical model, might be applied if/whenever the difference in the distribution of final marks in comparison to previous years is statistically relevant.

It is worth mentioning here that the Baccalaureate Examining Board has not made available to parents' information on how the aforementioned moderation would operate in practice. If a statistical model has been applied, students should be able to count on a model which is consistently applied to all students and which reflects their performances as fairly as possible.

This year, students who consider their final Bacc results do not reflect how they have performed during the school year and believe they would have received a better grade had they taken their written and oral exams will have the opportunity (will be entitled) to:

- register for the extraordinary Bacc session (September 2020)
- repeat year 7.

Based on the BAC rules, students will not be able to appeal just because their final results are different to what they expected.

¹ see document "Derogation to the General Rules and to the Arrangements for Implementing the Regulations for the European Baccalaureate (Applicable for the Year 2020 European Baccalaureate session) – Linked to COVID-19 circumstances".

² Religion and Ethics are excluded from the calculation.

However, students will be able to appeal if they have evidence that the Bac results may be challenged on the basis of any “procedural irregularity”

The formal appeal process takes time and results, at most, in the offer of a retake of the “subject” examination concerned.

ADMINISTRATIVE APPEAL

The General Rules of the European Schools (article 66.2) and the Arrangements for implementing the Regulations for the European Baccalaureate (article 12)³ foresee that Bac results may be challenged on the basis of “**procedural irregularity**” which is prejudicial to the students i.e. “affects them negatively”.

The **complaint process** is divided in two stages, an **administrative complaint** before the Chairman of the European Baccalaureate Examining Board (but which has to be made through Director of the European School where the student is registered), and, if that complaint is rejected, a **contentious appeal** is possible before the Complaints Board of the European Schools.

If you would like to be prepared “just in case” you do decide to **appeal** the Bacc results then please remember:

- That the process is formal: adherence to the rules and deadlines are vital.
- The deadlines are tight – the administrative complaint must be made within 10 calendar days of the communication of the Bac results, and the contentious complaint within two weeks (14 calendar days) of the notification of the rejection of the administrative complaint.
- The factual and legal arguments made during the contentious complaint stage must be similar to those made during the administrative complaint stage – you may not add fresh legal or factual arguments at the contentious stage; it is therefore important to identify and outline all relevant arguments already at the administrative stage.

³ Arrangements for implementing the Regulations for the European Baccalaureate (hereinafter A.I.R.E.B. – Document 2015-05-D-12-en-18). See especially Articles 6.5 and 12.

Who should lodge an appeal?

Even if you feel that your child has been harmed as a result of the Baccalaureate proceedings, you should not automatically consider lodging a formal complaint. The possibility should be considered only if you feel that the outcome of the new Bacc rules has been prejudicial to the Bacc candidate (your child) due to any infringement of the rules governing the Baccalaureate examinations and its implementation, as amended by the BoG in April 2020.

If a Bacc candidate is 18 years of age only he/she can lodge the appeal. If a candidate is under 18 years of age, his/her legal representatives must lodge the appeal⁴.

There are no ‘class actions’ permissible. All formal appeals/complaints must be introduced by individuals. However, a decision regarding a general procedural irregularity may be applied to all candidates whose final mark results suffer from the same procedural irregularity.

What are the possible grounds for an appeal?

Students should have access to a right of appeal if they believe the process has not been followed correctly in their case, mainly:

- whether the process leading to the final Bacc mark does not respect the procedures defined in Derogation to the General Rules and to the Arrangements for Implementing the Regulations for the European as amended by the BoG in April 2020;
- whether any procedural error in the calculation of the marks has occurred;
- if the moderation was applied without evidence of any significant statistical difference of the marks compared to the marks of previous year.
- in the case of moderation being applied, whether any moderation error has been made, as well as considering whether any procedural error in applying the moderation model, has occurred.

⁴ Art. 12.3 of A.I.R.E.B, which states clearly that no power of representation is allowed, failing which the complaint or appeal will be declared inadmissible (Complaints Board, case law 16/52 of 16 January 2017).

However, in view the current changes to the Bac grading system, which intervened during the course of the final school year, it must be considered where any breach of the fundamental principles of the European Union law have been breached and in particular the principles of legal certainty and of legitimate expectations. Whether there has been a breach of those principles, must be assessed on a case by case analysis.

As there were no written and oral examinations this year, we believe that candidates/their parents should be allowed to appeal if they believe the new rules were not followed correctly in their case, on the grounds that the wrong information was used to generate calculated grades or that a mistake was made when the Examining Board made use of the statistical moderation to standardize the grades or to allocate them.

Candidates who believe they have been given the wrong mark because of a numerical mistake should also be allowed to appeal.

Pedagogical assessments as to whether the grade(s) assigned to a pupil actually reflect his or her performance in the final Bacc mark are generally excluded. The lack of teachers' qualifications to teach the subjects of the Bacc does not constitute a procedural flaw either⁵.

Procedure

An administrative appeal, formulated in writing and specifying the reasons, must be lodged through the Director of the School attended by the pupil to the Chairman of the Examining Board of the European Baccalaureate.

- **First steps.** The immediate first step for lodging an appeal is to formally request the Director of your school to deliver a copy of all the documentation related to the award Bacc.

The request for papers must be made **in writing** to the Director of the School not later than 4 calendar days after the candidate has been informed of the Baccalaureate

⁵ Complaints Board, case law 16/52.

examination results. The Director must make all documents available not later than 3 calendar days after receipt of the request.

In view of the exceptional circumstances concurring this year, the request of documentation should include⁶:

- Detail of the calculation of the A marks
 - Detail of the support documentation of any possible moderation process.
- **Deadline for lodging an appeal.** The claim should be lodged not later than 10 calendar days⁷ after the communication of the Baccalaureate results to the candidate, notably leaving you - at shortest - only three days to formulate the final complaint text. The director of the school will send electronically the complaint, accompanied by all the relevant documentation, to the Secretary General of the European Schools not later than 2 working days after the reception at the school.

Final steps. On a proposal from the Secretary General of the European Schools, the Chairman of the Examining Board will decide whether or not the complaint or appeal lodged is admissible and well founded. Should it be deemed admissible and well founded, the Chairman of the Examining Board will assess on a case-by-case basis.

The decision thus adopted will be communicated to the candidate not later than 15 calendar days from reception in the Office of the Secretary General of the European Schools.

CONTENTIOUS APPEAL

A contentious appeal may be lodged with the Complaints Board only if an administrative appeal has been lodged with the Chairman of the Examining Board and only if an express or implied decision rejecting it has been taken in this regard.

⁶ Our understanding is that the documentation to which the Arrangements for the European Baccalaureate must be updated in view of the decision of the Board of Governors to cancel the ordinary session of the European Baccalaureate and to foresee the moderation of the marks when any statistically anomaly of the marks is observed.

⁷ Art. 12.1 of A.I.R.E.B. Weekends and holidays are included in the counting of the 10 days.

Please note that the Complaints Board has sole jurisdiction in the first and final instance.

You may choose to represent yourself or request the assistance of a lawyer.

Should your complaint be unsuccessful, the Complaint Board may require you to pay the litigation costs.

Should your contentious complaint be successful, the Chairman of the Examining Board may “assess on a case by case basis the need for the candidate to retake the examination concerned”.

The Rules of procedure of the Complaints Board are available at the following link:
<http://www.schola-europaea.eu/cree/index.php>

APPLICATION FOR THE EXTRAORDINARY SESSION

Candidates have also the possibility to apply for an extraordinary session of the European Baccalaureate that will take place in September.

For that purpose, the candidate (or his/her legal representative is he/she is under 18) must apply by mail with read receipt to the Director of the school.

The deadline is 10 calendar days after the communication of the results to the candidate.⁸

Before the first day of the extraordinary session, candidates must supply the original official Diploma and any certificate received at the proclamation.

The candidates who opt for the extraordinary session must take all the exams (normally five written exams and three oral exams).

Once the candidates have started the extraordinary session the previously obtained European Baccalaureate final marks will no longer be valid.

⁸ i.e. from 22 June 2020.

The results of those examinations will automatically replace the previous final marks, without the possibility for the candidates of going back to the previous marks.

It is important to remember that the timing this option may be incompatible in some Member States with the relevant Bacc candidates being able to transition to university this autumn.

REQUEST TO REPEAT S7

Finally candidates have also the possibility to repeat S7.

For that purpose, the candidate (or his/her legal representative if he/she is under 18) must apply by mail with read receipt to the Director of the school.

The deadline is 10 calendar days after the communication of the results to the candidate.⁹

ANY QUESTION?

If you have any question, please send a mail to your parents association or to the mail address president@interparents.eu, identifying your school.

⁹ i.e from 22 June 2020.