

RESEÑA: FERRER GÁLVEZ, JAIME A.: UN BUEN DOCENTE DE FAMILIA

REVIEW: FERRER GÁLVEZ, JAIME A.: A GOOD FAMILY TEACHER

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DATA SHEET

TÍTULO: *UN BUEN DOCENTE DE FAMILIA* (A GOOD FAMILY TEACHER).

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Resumen

El libro *Un buen docente de familia* aborda la responsabilidad civil de los docentes en el desarrollo de la docencia. El autor, Jaime A. Ferrer Gálvez, propone una conversación entre un abogado y un docente escéptico sobre la responsabilidad civil de los docentes en el ejercicio de sus funciones. El docente manifiesta su amor por su profesión, pero también sus miedos y emociones encontrados en los tiempos actuales. El abogado se enfrenta a sus propios miedos analizando la realidad en los centros educativos. El letrado va respondiendo a las preguntas e inquietudes del docente mediante respuestas de la ley y decisiones de los tribunales.

Palabras clave: *Responsabilidad civil, docentes, jurisprudencia, buen padre de familia, interés superior del menor, daños y perjuicios, protección de datos.*

Abstract

The book *Un buen docente de familia* (A good family teacher) addresses the civil responsibility of teachers in the development of teaching. The author, Jaime A. Ferrer Gálvez, proposes a conversation between a lawyer and a

skeptical teacher about the civil liability of teachers in the exercise of their functions. The teacher expresses his love for his profession, but also his fears and emotions found in current times. The lawyer faces his own fears by analyzing the reality in schools. The lawyer responds to the teacher's questions and concerns through answers to the law and court decisions.

Keywords: *Public liability, teachers, jurisprudence, good family parent, best interests of the minor, damages, data protection.*

STRUCTURE AND CONTENT OF THE BOOK

At the beginning of the book the author presents a legend of the icons that we will find throughout the reading: sentences, key points, +information, legislation, QR codes, and questions. These symbols will focus the reader's attention, emphasizing important aspects.

The book begins with an exchange of emails between a teacher and a lawyer. The lawyer, aiming to provide teachers with more security in the exercise of their profession, proposes a symbiosis to the teacher to share knowledge and write a book, with questions and answers about teaching in non-university institutions, drawing on the lawyer's experience in courtrooms.

It consists of 8 chapters or parts and is presented in a WhatsApp conversation format between the teacher and the lawyer, which makes the reading enjoyable and easy to follow.

PART 1. CONNECTING WORLDS

In the first part, the teacher explains to the lawyer the fears he has about the problems that arise in schools today, which can lead to complaints from parents, disciplinary proceedings, or even lawsuits. The lawyer considers that these fears can be lost or minimized with legal training, and proposes that they ask questions, to which they will provide answers.

PART 2. TALKING ABOUT RESPONSABILITY

In this chapter, the author focuses on the concept of civil responsibility, defining the elements that must be present for it to exist. The author specifically addresses the educational field and also discusses the concept of administrative liability in the case of public institutions.

The concept of *good family parent* is introduced for the first time, which is referenced in the civil code and forms the basis of the wordplay that gives the book its name by combining it with the educational context.

Different scenarios are exemplified to determine who is responsible in case of action or omission that causes harm, when there is negligence or fault on the part of the teacher or the institution. Additionally, a link to a Supreme Court ruling regarding teacher's negligence and the need to exercise exemplary care and control over minors is included.

PART 3. DAMAGES

In this chapter, the author deals with the concept of damages and what compensation includes when it comes to quantifying them, as well as the

conditions that must be met to be able to claim. The author distinguishes in these cases the liability of adults or minors, as well as cases comparable to minors, mentioning the concepts of *rehabilitated or extended parental authority*.

In addition to referencing the Law that has been applied for the quantification of damages suffered in school accidents, this chapter is accompanied by a sentence relating to what is included in general within the compensable damages, and another relating to the liability of adults for their own acts.

PART 4. THE CIVIL CODE

The author focuses on the role of monitoring and control of the teaching staff, which determines the liability of the educational center in all activities and services provided by the latter, even outside school hours.

He also addresses the liability for damages caused by or to minors, which is extinguished when it is shown that the diligence of a good parent has been used to avoid the damage claimed, or that the organizational measures were such as to justify the action, extending this exemption to cases of force majeure, fortuitous event, exclusive fault of the victim, accepted risk, self-defense, the victim's consent, or concurrence of faults.

The concepts of willful *misconduct* and *fault* are introduced here, which are key to liability, by stating that the owners of the centers may demand from the teachers the amounts paid, if they have incurred in willful misconduct or gross negligence in the exercise of their functions that were the cause of the damage.

PART 5. WHAT THE COURTS SAY AND BEHAVIOR TOWARDS THEM

In this chapter, the teacher suggests seeking judicial criteria for specific situations related to the responsibility of teachers. The author, through various sentences, highlights how different judgments can be issued for substantially similar cases. To justify this, he refers to the degree of discretion given to judges in determining such liability, as well as the importance of details that will define the outcome in a specific case.

The author also argues that the passage of time and the emergence of new elements, such as technology, can cause judgments to change, attributing responsibility to the institution, families, or shared responsibility depending on the case.

He relies on case law to analyze various cases of teachers' civil liability. Furthermore, it is stated that one must accept risk as an inherent part of a teacher's work, and being aware of the multitude of situations that may arise, the importance of deploying all available tools to prevent harm in situations where

liability may arise is emphasized.

The lawyer adds a series of guidelines or commitments to oneself intended to help teachers face situations where potential liability may arise.

PART 6. EVIDENCE

For the first time, the author introduces the figure of the education inspector, emphasizing their prestige and consideration due to his continuous training and legal knowledge, and defends the need for teachers to be better trained in legal aspects.

He discusses the issue of bullying, including several sentences, stressing that the teacher must act promptly and leave everything documented, since he will be liable for his actions or culpable omissions that cause damage. He clarifies that there is a big difference when we talk about liability of educational centers or teachers. In the first case, it is the school that must prove that it had all the necessary organizational measures in place and that it used all the diligence of a good parent to prevent harassment. In the case of the teacher, those claiming liability will have to prove it.

The validity of recorded conversations as evidence is also discussed. The author also compiles 27 means of evidence that could be used in court.

He describes the means of evidence admitted by law in civil proceedings, which can be summarized in the fact that any means that allows a record of what happened is valid; new technologies in this regard are great importance.

It also explains the concept of *joint and several liability*, when it is impossible to determine the liability of each person in the bed causing the damage. The author introduces here a very recurrent concept in the daily work of education inspectors: *the best interest of the minor*, as one of the fundamental principles that must govern any action of the administration with minors.

It is clarified that the obligation of institutions to compensate for the damage caused by minors under their supervision and control also extends to the harm caused by minors to themselves, if the damage was foreseeable and probable. However, it is emphasized that each case must be analyzed individually, considering factors such as age and maturity.

PART 7. DO YOU DARE?

This chapter addresses occupational risk prevention by highlighting the obligation of the educational authority to guarantee the rights of teachers in this matter, as well as the teachers' obligation to fulfill their responsibilities.

The author points out that the responsibility always falls on those who

exercise control and supervision at the time of the events, emphasizing the importance of always ensuring documentation of parental authorizations.

It is emphasized that the law does not define the age at which a minor is considered mature and capable of judgment, and different age ranges are typically used by judges to establish this.

Regarding the information provided by schools to parents about their children's educational and guidance process, the lawyer explains that in the case of separated parents, schools have the obligation to provide duplicate information. It is added that in cases of disputes related to parental authority, a judge will have to make the decision.

The chapter concludes by stating that, regarding data protection, consent is not required to process personal data of students when the purpose is educational or guidance-related. Explicit consent is required in other cases, although anonymization of data can sometimes be used.

As for the academic information that can be given to parents about their children, if they are of legal age, the lawyer indicated to the teacher that they have the right to receive it as long as they are financially dependent on them.

PART 8. TEACHERS-COURAGE

This last chapter begins by stressing the importance of including in the school's programmatic documents aspects that regulate the activities carried out within them.

The lawyer is adamant in stating that, in the event of offenses or threats against a teacher, decisive action must be taken. First, an attempt at mediation should be made, and if that fails, it should be reported to the law enforcement authorities. In cases of child abuse, immediate reporting is essential. It is important for teachers to be aware of their individual rights and their collective rights, which guarantee their personal and professional development.

Regarding the obligation of teachers to provide healthcare assistance, the lawyer points out that they are required to know and properly implement established protocols to ensure the right to education for students in need of medical assistance. This requires good coordination and collaboration between the Ministries of Education and Health. In any case, due diligence must be exercised in aiding minors to prevent any potential liability.

Physical contact with minors is not recommended under any circumstances, although it could be defended and justified in very specific actions, just as accessing personal data of minors without consent.

School absenteeism is another facet of the surveillance and control that schools and teachers must have over their students, and therefore they must be

diligent in complying with protocols and attendance control.

This chapter presents two cases of courageous teachers who had to fight against the resistance of the educational community and go against disciplinary measures imposed by the educational administration.

Regarding the requirements for personal data of students by the law enforcement authorities, such data should be provided if certain conditions specified by the Spanish Data Protection Agency are met. These conditions include the necessity of the data to prevent danger, for a specific investigation, and that the request is specific, motivated, and always respects the right to erasure.

The author warns that the statute of limitations for claims due to fault or negligence is one year from the moment the aggrieved party becomes aware of it. The lawyer informs the teacher about different resources available for assistance and defense that a teacher may need, one of which is the education inspectorate.

Finally, 27 specific cases of civil liability judgments involving teachers are included in this chapter.

This self-help legal book for teachers is an interesting work for those looking to delve into the topic of civil liability. The inclusion of each judgment linked through QR codes adds great value to the book, offering readers a multitude of details and considerations that can serve as a guide when faced with similar problems. Its reading can be of great assistance to education inspectors, who are constantly involved in cases similar to those presented.

The author's objective with this book is to enable readers to expand their legal knowledge so that they "lose the fear of the monster of civil liability in teaching". In doing so, the author highlights the crucial aspect of teachers acting with the diligence of a *good family parent* as a key factor in exempting them from liability.