

**14-366. Aggravated battery on a [school employee] [sports official] [health care worker]; without great bodily harm; essential elements.**

For you to find the defendant guilty of aggravated battery on a \_\_\_\_\_<sup>1</sup> without great bodily harm [as charged in Count \_\_\_\_]<sup>2</sup>, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant touched or applied force to \_\_\_\_\_ (*name of victim*) by \_\_\_\_\_<sup>3</sup>;
2. The defendant intended to injure \_\_\_\_\_ (*name of victim*);<sup>4</sup>
3. At the time, \_\_\_\_\_ (*name of victim*) was a \_\_\_\_\_<sup>1</sup> and was performing the duties of a \_\_\_\_\_<sup>1,5</sup>;
4. The defendant knew \_\_\_\_\_ (*name of victim*) was a \_\_\_\_\_<sup>1</sup>;
- [5. \_\_\_\_\_'s (*name of victim*) injury was not likely to cause death or great bodily harm<sup>6</sup>];
6. The defendant caused \_\_\_\_\_ (*name of victim*) [painful temporary disfigurement] [or]<sup>7</sup> [a temporary loss or impairment of the use of \_\_\_\_\_ (*name of organ or member of the body*)];
7. This happened in New Mexico on or about the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**USE NOTES**

1. Insert type of specially protected worker - school employee, sports official, or health care worker.
  2. Insert the count number if more than one count is charged.
  3. Use ordinary language to describe the touching or application of force.
  4. If the “unlawfulness” of the act is in issue, add unlawfulness as an element as provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 is given. If the issue of “lawfulness” involves self-defense or defense of another, see UJI 14-5181 NMRA to UJI 14-5184 NMRA.
  5. “School employee” is defined in NMSA 1978, Section 30-3-9(A). “Sports official” is defined in NMSA 1978, Section 30-3-9.1(A). “Health care worker” is defined in NMSA 1978, Section 30-3-9.2(A). If there is an issue as to whether or not the victim was a specially protected worker, a definition instruction similar to UJI 14-2216 NMRA must be given. If there is an issue as to whether the victim was within the lawful discharge of the worker’s duties, an instruction may need to be drafted.
  6. Use bracketed phrase if this is an issue. UJI 14-131 NMRA, the definition of “great bodily harm” must be given if this phrase is used.
  7. Use only the applicable bracketed element established by the evidence.
- [Adopted by Supreme Court Order No. 14-8300-005, effective for all cases filed or pending on or after December 31, 2014.]