

14-367. Aggravated battery on a [school employee] [sports official] [health care worker] with a deadly weapon; essential elements.

For you to find the defendant guilty of aggravated battery on a _____¹ with a deadly weapon [as charged in Count ____]², 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 _____³ with a [_____] ⁴ [deadly weapon. A _____ (*name of object*) is a deadly weapon only if you find that a _____ (*name of object*), when used as a weapon, could cause death or great bodily harm⁵];⁶

2. At the time, _____ (*name of victim*) was a _____¹ and was performing the duties of a _____^{1;7}

3. The defendant knew _____ (*name of victim*) was a _____¹;

4. The defendant intended⁸ to injure _____ (*name of victim*);

5. This happened in New Mexico on or about the ____ day of _____, _____.

USE NOTE

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. Insert the name of the weapon. Use this alternative only if the deadly weapon is specifically listed in NMSA 1978, Section 30-1-12(B).

5. UJI 14-131 NMRA, the definition of “great bodily harm,” must also be given.

6. This alternative is given only if the object used is not specifically listed in NMSA 1978, Section 30-1-12(B).

7. “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.

8. 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.

[Adopted by Supreme Court Order No. 14-8300-005, effective for all cases filed or pending on or after December 31, 2014.]