

14-362. Assault on a [school employee] [health care worker]; threat or menacing conduct with intent to commit a violent felony; essential elements.

For you to find the defendant guilty of aggravated assault on a _____¹ with intent to kill [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 _____ (describe unlawful act, threat or menacing conduct);
2. At the time, _____ (*name of victim*) was a _____¹ and was performing duties of a _____^{1, 4};
3. The defendant knew _____ (*name of victim*) was a _____;¹
4. The defendant's conduct caused _____ (*name of victim*) to believe that the defendant was about to intrude on _____'s (*name of victim*) bodily integrity or personal safety by touching or applying force to _____ (*name of victim*) in a rude, insolent or angry manner;³
5. A reasonable person in the same circumstances as _____ (*name of victim*) would have had the same belief;
6. The defendant intended to kill _____ (*name of victim*);
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. To instruct on the elements of an uncharged offense, UJI 14-140 NMRA must be used.
4. "School employee" is defined in NMSA 1978, Section 30-3-9(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.
5. 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 NMRA is given. If the issue of "lawfulness" involves self-defense or defense of another, see UJIs 14-5181 to 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; as amended by Supreme Court Order No. 21-8300-025, effective for all cases pending or filed on or after December 31, 2021.]