

VA



U.S. Department
of Veterans Affairs

Board of Veterans' Appeals Annual Report



Fiscal Year 2014

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Department of Veterans Affairs

Board of Veterans' Appeals

Annual Report Fiscal Year 2014

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MEMBERS OF THE BOARD¹

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Vice Chairman

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Principal Deputy Vice Chairman

Bruce P. Gipe

Deputy Vice Chairmen

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Mark F. Halsey

Jacqueline E. Monroe

Stephen L. Wilkins

Milo H. Hawley

Michael A. Pappas

Jessica J. Wills

¹ Pursuant to 38 CFR § 19.2(b), a member of the Board may also be known as a Veterans Law Judge (VLJ).

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INTRODUCTION

The Board of Veterans' Appeals' (Board) mission is to conduct hearings and decide appeals properly before the Board in a timely manner. 38 United States Code (U.S.C.) § 7101(a). The Board's jurisdiction extends to all questions in matters involving a decision by the Secretary under a law that affects a provision of benefits by the Secretary to Veterans, their dependents, or their Survivors. 38 U.S.C. §§ 511(a); 7104(a). Final decisions on such appeals are made by the Board based on the entire record in the proceeding and upon consideration of all evidence and applicable provisions of law and regulation. 38 U.S.C. § 7104(a).

After the end of each fiscal year (FY), the Chairman is required to prepare a report on the activities of the Board during that fiscal year and the projected activities of the Board for the current and subsequent fiscal years. 38 U.S.C. § 7101(d)(1). This Annual Report includes two parts: Part I provides a discussion of Board activities during FY 2014 and projected activities for FYs 2015 and 2016; Part II provides statistical information related to the Board's activities during FY 2014 and projected activities for FYs 2015 and 2016.

The appeals process in the Department of Veterans Affairs (VA) is a complex, multi-step adjudication process, which utilizes an open record – that is, it allows a Veteran to submit medical and lay evidence at any point from the beginning to the end of the process, including while the claim is pending on appeal, which may in turn require VA to develop further evidence on the Veteran's behalf. Appeals are initiated at the Agency of Original Jurisdiction (AOJ), which includes the Veterans Benefits Administration (VBA) Regional Offices (RO), Veterans Health Administration (VHA) medical facilities, the National Cemetery Administration (NCA), and the Office of General Counsel (OGC). While the vast majority (97 percent) of appeals considered by the Board involve claims for disability compensation, the Board also reviews appeals involving other types of Veterans benefits, to include insurance benefits, educational benefits, home loan guaranties, vocational rehabilitation, dependency and indemnity compensation, health care delivery, burial benefits, pension benefits, and fiduciary matters. If an appeal is not resolved at the AOJ level to the Veteran's (or Appellant's) satisfaction, he or she may formally continue that appeal to the Board for a *de novo* review (*i.e.*, new look) and the issuance of a final decision.



**Department of Veterans Affairs
Fiscal Year 2014
Veterans Law Judges**

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PART I

ACTIVITIES OF THE BOARD OF VETERANS' APPEALS FY 2014

The Board was established in 1933 and operates by authority of, and functions pursuant to, Chapter 71 of title 38, U.S.C. The Board consists of a Chairman, a Vice Chairman, and such number of members as may be found necessary in order to conduct hearings and dispose of appeals properly before the Board in a timely manner. 38 U.S.C. § 7101(a). “Members of the Board,” also known as “Veterans Law Judges” (VLJ), are supported by a large staff of attorneys and administrative personnel. 38 Code of Federal Regulations (CFR) § 19.2(b).

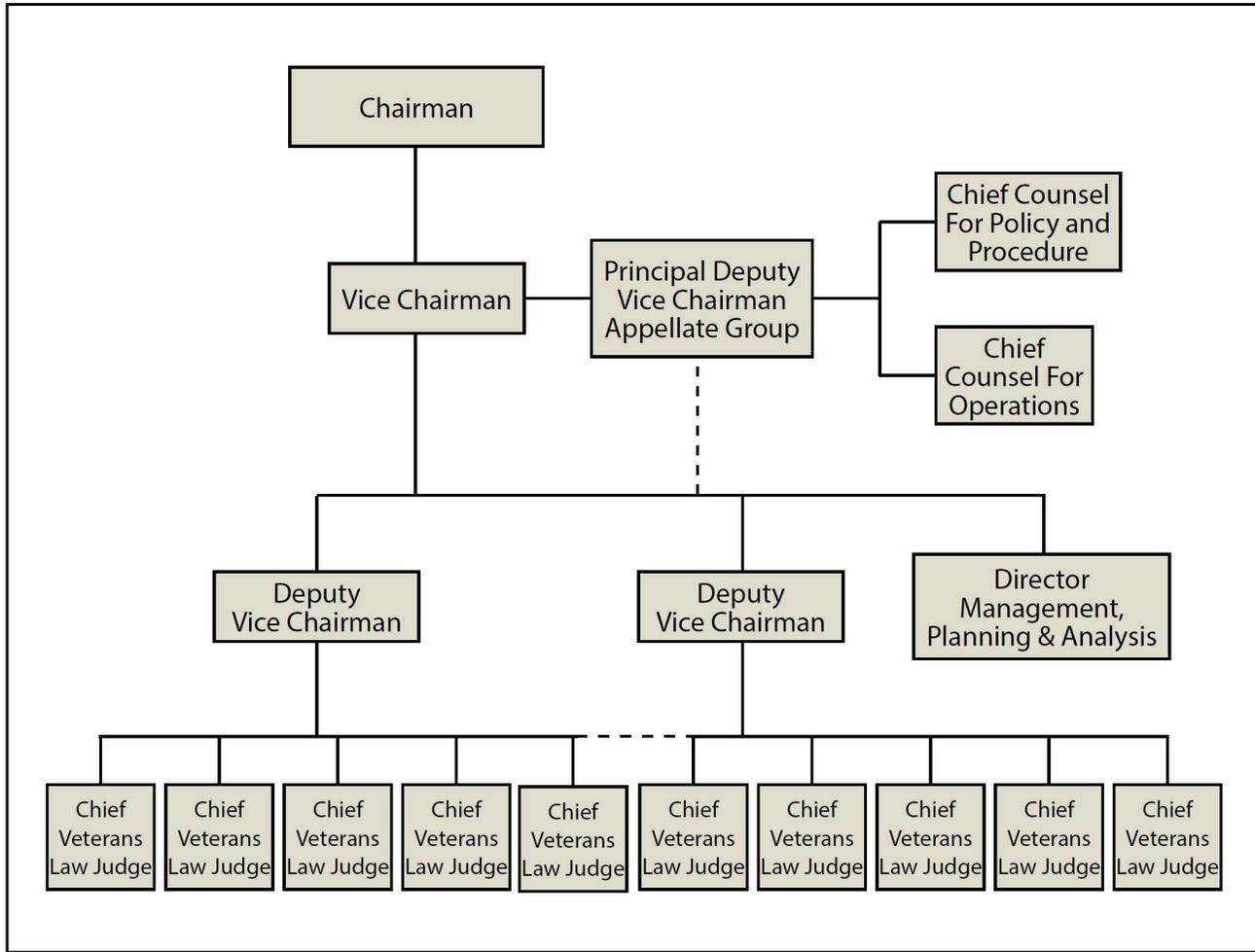
The Board is currently structured with four main components: the Office of the Chairman; the Appellate Group; the Office of Management, Planning and Analysis (MPA); and the Office of Veterans Law Judges (OVLJ). The Office of the Chairman consists of a Chairman (EX) and a Vice Chairman (Senior Executive Service (SES/VLJ)). The Chairman is appointed by the President, by and with the advice and consent of the Senate, for a term of 6 years, and is directly responsible to the Secretary. The Vice Chairman is a Member of the Board who is designated by the Secretary.

The Board’s Appellate Group consists of a Principal Deputy Vice Chairman (SES/VLJ), a Chief Counsel for Operations (Senior Level (SL)/VLJ), and a Chief Counsel for Policy and Procedure (SL/VLJ). The Appellate Group provides legal advice and policy guidance to the Board and other VA business lines, and includes the following offices: Litigation Support, Quality Review, the Office of Learning and Knowledge Management (Training Office), Labor and Employee Relations, Regulations Office, Research Center, and a Medical Advisor.

MPA is the administrative directorate of the Board, consisting of the Director (SES), the Deputy Director, the Financial Management Division, the Administrative Support Division, and the OVLJ Support Division.

The OVLJ consists of two Deputy Vice Chairmen (DVC) (SES/VLJ), 10 Chief VLJs, up to 78 VLJs, and approximately 410 attorneys who prepare tentative written decisions for review and signature by a VLJ. VLJs are appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman 38 U.S.C. § 7101A(a)(1).

Board Structure



Successes

FY 2014 was a year of many successes for the Board. In addition to continuing to provide outstanding service to Veterans by issuing high quality decisions and conducting hearings in appeals before the Board, the Board also continued to seek and implement innovative ways to improve business processes through a variety of pilot programs and technological advancements. The Board underwent an unprecedented period of growth in staff size, which necessitated the successful implementation of new hiring and training programs. The Board also continued to advocate for legislative proposals that would further streamline the VA appeals process.

Service to Veterans

In FY 2014, the Board proudly served over 55,000 Veterans and beneficiaries by issuing 55,532 decisions – the highest number of decisions issued by the Board since the 1988 enactment of the Veterans’ Judicial Review Act (VJRA), which established the United States Court of Appeals for Veterans Claims (CAVC). Additionally, the Board’s VLJs and Acting VLJs personally interacted with Veterans and Appellants by holding 10,879 hearings, either held face-to-face at a VA facility (known as Travel Board hearings), in-person at the Board’s office in Washington, DC (known as “Central Office” hearings), or through video teleconference (VTC) between the Board and a VA

facility. Most VLJs traveled to at least two ROs to conduct 1 week of Travel Board hearings at each site, in addition to holding a large number of VTC hearings and Central Office hearings.

The Board's cycle time, which measures the average time from the date an appeal is physically received at the Board until a decision is dispatched (excluding the time the case is with a Veterans Service Organization (VSO) representative for review and preparation of written argument) was 202 days in FY 2014. The Board's total time for FY 2014 was 357 days, which includes the time the case is with a VSO representative for review and preparation of written argument.

The Board received 47,048 appeals in FY 2014. As VBA continues to become more productive in processing claims through its transformation efforts in the coming years, the Board expects to receive an increase in appeals proportionate to VBA's higher output in claims decisions. Based on a methodology for predicting trends in case receipts developed jointly by the Board and VA's Office of Management, the Board anticipates receiving 74,072 appeals in FY 2015, which includes original appeals from VBA, returned remands from VBA's Appeals Management Center (AMC) and the United States CAVC, and appeals from other elements of VA, including VHA, OGC, and NCA. This is consistent with the historical rate of appeals received by the Board as a percentage of the claims decided by VBA.

In addition to dispatching 55,532 decisions in FY 2014, the Board's administrative support staff reviewed and processed 59,971 pieces of mail. Additionally, the administrative staff, including the Board's call center in Wilkes-Barre, Pennsylvania, answered 105,384 inquiries from Veterans or their representatives by phone, email, and written correspondence. The Board's Correspondence Unit issued 2,626 responses to Congressional inquiries and provided 2,233 appeal status updates to Veterans and Appellants. Furthermore, the Board requested 117 independent medical examination opinions and 1,087 VHA medical opinions to facilitate adjudication of these Appellant's cases.

Hearings

The Board is proud to have met and exceeded its FY 2014 goal of conducting at least 50 percent of hearings by VTC, holding a record 54 percent of hearings by VTC. By doing so, the Board reduced its travel costs by eight percent and reduced down time faced by VLJs when traveling to in-person hearing sites. More significantly, VTC hearings saved an average of 100 days of wait time for Veterans, as they can be scheduled more efficiently than in-person Travel Board hearings. The Board continued to encourage more widespread use of VTC to reach Veterans and other Appellants at ROs and some VA medical centers. Moreover, the Board continued to survey hearing participants, with an impressive 95 percent of Veterans and other Appellants reporting that they were either satisfied or very satisfied with their hearing and their interaction with the VLJ.

Technology

The Board continues to leverage technology where possible in order to gain efficiencies in case processing. In particular, the Board initiated and implemented a program to digitize hearing transcripts. The Board also continues to coordinate with other VA partners to transform VA into a 21st century organization. In FY 2014, the Board began to focus efforts on modernizing appeals through a people, process, and technology strategic approach. The Board also continued to maintain its presence on eBenefits – a joint venture between VA and the Department of Defense, which provides Veterans the opportunity to check the status of their claims and appeals securely online or from their mobile device.

Hiring

With the generous support of Congress, the Board was able to hire staff to continue supporting its mission to serve more Veterans and their families. Specifically, the Board hired approximately 90 additional staff, the majority of which were attorneys (64). In addition, the Secretary appointed, with the approval of the President, some additional VLJs who will adjudicate appeals and hold hearings with Veterans in the coming years.

Training

Commensurate with the intensive hiring surge that began in 2013, the Board's Office of Learning and Knowledge Management (OLKM) redesigned the training curriculum provided to new attorney hires. The redesigned training program, which included 6 weeks of intensive classroom and practical training, as well as 3 months of decision-writing under the guidance of more senior attorneys, sought to ensure that the new hires were trained uniformly and that each developed the skill set required to draft timely, high-quality decisions.

In FY 2014, the Board also continued to focus on methods to increase the quality of the decisions rendered while maintaining a high-level of decision output. The Board's OLKM created targeted training for all employees based, in part, on trends gleaned from the Board's quality review process, as well as on outcomes in cases heard before the CAVC and the United States Court of Appeals for the Federal Circuit (Federal Circuit). Specifically, the OLKM coordinated comprehensive training for Board counsel and VLJs, including courses on topics such as: ramifications of the holding in *Walker v. Shinseki*; the presumption of soundness and aggravation; extra-schedular ratings versus total disability evaluations based on individual unemployability due to service-connected disabilities; commonly seen issues, including Type II diabetes mellitus, sleep apnea, and hypertension; apportionment and accrued benefits; special rating situations; dependency and indemnity compensation benefits and substitution; and respiratory disorders. The Board also conducted joint training with the Office of General Counsel, Professional Group VII, on evidentiary strategies.

Additionally, the Board continued to offer medical training for its legal staff to address the increasing complexity of disability compensation appeals. The Board also conducted mandatory training for all staff regarding the Veterans Benefits Management System (VBMS), VA's electronic claims processing system, as the Board continues to transition from a paper appeal process to electronic appeals. Mandatory training was provided for all staff on the topics of diversity and inclusion, as well as mandatory training for supervisors on the Americans with Disabilities Act, Sexual Harassment, and other VA required on-line training courses, which are designed to support a strong management workforce.

Quality

In FY 2014, the Board continued to challenge employees to maintain high levels of quality, and through these efforts, achieved an accuracy rating of 94.7 percent in the decisions issued, up 0.5 percent from FY 2013. The Board's accuracy rate (*i.e.*, the Board's deficiency-free rate) quantifies substantive factual and legal deficiencies in all decisions, whether an allowance, a remand, or a denial. To determine its accuracy rate, the Board uses a weighted formula that was created in collaboration with the Government Accountability Office (GAO). Specifically, 5 percent (1 out of 20) of all original appeals and 10 percent (1 out of 10) of all cases returning from remand by the CAVC are selected at random by the Veterans Appeals Control and Locator System (VACOLS) for an accuracy review by the Board's Quality Review Staff. Any quality deficiencies

identified during the quality review process are addressed through appropriate follow-up training for VLJs and attorneys.

Efficiencies

The Board is committed to leveraging efficiencies in its business processes to better serve Veterans and their families. In anticipation of an aggressive goal of decisions produced in FY 2014, the Board continued to implement various business process improvements to meet the expected rise in incoming workload. Notably, although the Board's increase in staff at the beginning of FY 2014 represented a 20-percent increase above staff levels at the beginning of the previous fiscal year, the Board's productivity in FY 2014 rose 32.5 percent. The Board attributes this achievement to the hard work and dedicated efforts of its staff. Additionally, other initiatives, such as the shorter, more focused decision-writing, particularly in those cases in which benefits can be granted or the appeal must be remanded (*i.e.*, sent back) to the AOJ for further development, likely also contributed to the record level of Veterans served by the Board in FY 2014.

Employee Engagement

In April 2014, a Survey Results Task Force was formed to discuss and analyze the 2013 All Employee Survey (AES) and American Federation of Government Employees Local 17 survey results and make suggestions to senior leadership with the goal of improving organizational culture. In August 2014, the Board's Task Force, which had been meeting on a weekly basis since April, presented a number of proposed action plans for improving communication at the Board to the senior leadership team. The ideas centered around: increasing the consistency and availability of information by providing a centralized database for information for all staff; including Board policies, procedures, and information regarding commonly addressed issues via a Board Policies and Procedures SharePoint Web site; continuing to provide a regular visual reminder for staff of the annual decision goal that the Board is working towards, and the number of Veterans we have already served; provide another forum for OVLJ (VLJs and attorneys) and MPA staff to hear about recent events, the reasoning behind OVLJ/MPA policy decision making, and other issues that affect daily work within their respective workgroups by conducting regularly held, interactive OVLJ/MPA Town Halls with all OVLJ/MPA staff; continue conducting regularly held, interactive Board-wide meetings for staff to hear about recent events, the reasoning behind Board policy decision making, and other issues that affect the daily work of the Board; improve bilateral communication at the Board by providing mandatory communication training for all staff on tactful, effective communication; and continue to enhance psychological safety and trust relationships by providing an anonymous forum (*i.e.*, the Board's Suggestion Boxes) for staff to ask questions of leadership on items of interest prior to Town Hall/Board-wide meetings. Board leadership concurred on working to implement all 13 recommendations in FY 2014 and beyond. Board leadership encourages and welcomes employee feedback from the Survey Results Task Force and other focus groups, such as the Organizational Climate focus group and VLJ focus group. To this end, leadership supported an active campaign to increase participation in the 2014 AES, resulting in a record-breaking 96.1 percent participation rate. The Board looks forward to analyzing these results and using them to continue to improve the culture in the workplace.

Legislative Proposals

Board leadership continued to strongly promote discussion of a variety of legislative proposals aimed at implementing systemic changes that seek to increase efficiency in the appeals process in

a way that is both fair and beneficial to Veterans. In recent years, VA has proposed in its budget a number of such proposals, including those to increase the efficiency of the Board's work by encouraging the use of VTC hearings. Other legislative concepts have touched on other parts of the appeal process, seeking logical changes that can reduce unnecessary appeals activity that does not meaningfully contribute to the fair disposition of a Veteran's claim. Close engagement with VA stakeholders, including VSOs, will be necessary to further these efforts.

Coordination with Administrations and Other Staff Offices

During the past year, the Board actively partnered with VA stakeholders across the corporate enterprise, including VBA, VHA, OGC, NCA, and the Office of Information Technology (OIT), Office of Management (OM), Human Resources and Administration (HRA) and other staff offices in order to better serve Veterans and their families. In particular, the Board continued its efforts to conduct as many hearings as possible within full-time equivalent (FTE) employee levels in order to reduce the number of cases on appeal awaiting Board hearings. To this end, in FY 2014, the Board worked closely with VBA leadership to track the Travel Board hearing no-show rate and the docket capacity rate in an effort to ensure that each hearing docket was fully maximized to serve as many Veterans and other Appellants as possible.

Additionally, in FY 2014, the Board initiated the Appeals Modernization Project, working closely with appeals representatives from VBA, VHA, OGC, and NCA. The project's focus is on VA appeals processing throughout the entire Department, in an attempt to assess the current state of the appeals process and to outline a desired integrated future state concept. The Board hopes that through these efforts, the Appeals Modernization Project will create a blueprint for a modern appeals infrastructure to increase efficiencies and streamline systems.

Further, with regard to those appeals that must be remanded, the Board continued to closely track the reasons for remand for management and training purposes, and the Board's Quality Review Office continued to engage in extensive liaison efforts with VBA's AMC to address and resolve issues pertaining to the proper processing of remands. Towards that end, the Board's Quality Review Office and OLKM have been working with the AMC to prepare joint training on remands that will be presented to the Board in early FY 2015. The goal of this training is to help the Board more efficiently draft remands and to aid the AMC in more efficiently processing Board remands.

Additionally, during FY 2014, the Board began sending counsel on Travel Board trips to provide VBA adjudicators with a training presentation that was jointly prepared by the Board and VBA. This presentation targets current changes in the law and areas of weakness in the adjudication process that were identified through VBA and Board collaboration and seeks to ensure that full development of an appeal is completed by VBA prior to that appeal reaching the Board.

In FY 2014, data shows that 64 percent of the Board's remand reasons are the result of additional development that VA must undertake due to the Veteran's identification of additional evidence after the appeal was transferred to the Board, or the submission of new evidence by the Veteran, which in turn triggered additional development as a result of VA's statutory duty to assist. The remaining 36 percent of remand reasons reflect areas where continued joint training efforts can be focused.

The Board also played an integral role in many intra-Departmental working groups during FY 2014. Of note, the Board was represented in the Appeals Workload Risk Assessment and Risk Analytics Project through VA's Office of Enterprise Risk Management (OERM). Board representatives, working collaboratively with members from VBA, OIT, and VHA, helped identify several

challenges contributing to cycles of appeals rework, and suggested solutions to resolve issues that contribute to appeal delays. In an effort to help identify the effect of certain factors on appeals timeliness, members of this working group also assisted OERM with designing a risk analytics pilot—a data-driven program that captured snapshots of various stages of appeals.

In an effort to improve the compensation and pension examination process, the Board continued to partner with DMA and VBA on a workgroup that seeks to enhance the quality of examination reports by developing web-based courses for clinicians performing compensation and pension examinations. In this regard, the Board welcomed representatives from this workgroup to its facility on numerous occasions during FY 2014 to discuss various medical and legal matters, including examinations related to the hand and fingers, as well as Aid and Attendance.

The Board also continued to actively work with VBA and OGC on combined regulatory revisions requiring the use of standardized forms for submission of claims and Notices of Disagreement. These collaborative efforts resulted in issuance of a proposed rulemaking that was published in October 2013 and a final rulemaking that was published in September 2014. The amendments are intended to modernize the VA system so all Veterans receive more timely and accurate adjudications of their claims and appeals.

In support of VA's mission to end Veteran homelessness, the Board provided representatives to the Eliminating Veterans Homelessness Task Force in order to provide outreach and opportunities to homeless or formerly homeless Veterans. The Board took every opportunity to advance cases on the docket for those experiencing financial hardship.

Veterans Service Organization Forums and Training

The Board continues to invite VSOs and attorneys who represent Appellants before the Board to VSO Forums, which are held periodically throughout the year. These meetings address appeals issues raised by representatives and also facilitate the exchange of ideas and information. At these forums, Board leadership provides an update on the Board's activities and addresses matters of general interest.

The Board also provides training to VSO representatives who are co-located with the Board to familiarize them with Board processes and procedures, as well as the various functions of the administrative personnel, attorneys, and VLJs. VSOs are also invited to provide training to attorneys and VLJs, and to participate in any in-house training that is provided to Board staff.

Volunteer Activities

The Board proudly supports Veterans and their families. In FY 2014, the Board continued to facilitate the collection and donation of comfort items for distribution to Veterans at the Washington, DC, VA Medical Center, the Fisher House, and the United States Armed Forces Retirement Home (USAFRH). Staff members also participated in the Toys for Tots campaign organized by the United States Marine Corps Reserve, and helped to collect calendars and valentines for Veterans to distribute at the USAFRH. The Board's Leadership Initiative (LI) organized groups of Board employees and family members to welcome WWII and Korean War Veterans to Washington, DC, arriving at Reagan National Airport as part of the Honor Flight Network, a 501(c) (3) organization that transports Veterans, free of charge, to our Nation's capital to visit those memorials dedicated to honoring their service and sacrifices. LI organized a number of Board employees who worked alongside members of the CAVC Bar Association to assist the National Park Service in cleaning the

Korean War and Vietnam Veterans Memorials, and to volunteer at the DC Central Kitchen preparing meals for the homeless, including homeless Veterans. Numerous Board employees participated in the Winterhaven Homeless Veterans Stand Down; the Veterans Day Ceremony at Arlington National Cemetery; and other outreach events at the VAMC in Washington, DC. The Board also actively participated in the Combined Federal Campaign and the Feds Feed Families food drive. Additionally, the Board published the sixth volume of the *Veterans Law Review*, which is edited and managed by an all-volunteer staff; no duty time is used for writing or editing activities.

Significant Judicial Precedent and Its Effect on the Board

Throughout FY 2014, the CAVC and the Federal Circuit issued many significant decisions that impact the way VA adjudicates appeals, including the following:

- ▶ ***AZ v. Shinseki*, 731 F.3d 1303 (Fed. Cir. 2013):** In this consolidated case, two Appellants originally filed claims for service connection for posttraumatic stress disorder (PTSD) alleged to have resulted from sexual assaults that occurred during service. The Board and the CAVC denied both claims, in part on the ground that the Veterans' service records did not include reports of the alleged assaults, and because the Veterans stated that the assaults were never reported to the military authorities. The Federal Circuit vacated and remanded the CAVC decisions, holding that VA may not rely on a Veteran's failure to report an in-service sexual assault to military authorities as pertinent evidence that the sexual assault did not occur.

In reaching this decision, the Federal Circuit noted that by statute, VA is required to "consider all information and lay and medical evidence of record" in determining service connection, 38 U.S.C. § 5107(b), and that such medical and lay evidence be "pertinent," *see* 38 U.S.C. § 1154(a). The Federal Circuit then noted that while the regulations governing the criteria for establishing service connection for a PTSD claim, and particularly those pertinent to a PTSD claim based on an "in-service personal assault," identify the types of lay and medical evidence that must be considered, neither the statute nor any other VA regulation directly addresses the role that the absence of service records reporting the alleged assault should play in a disability determination. As a result, the Federal Circuit looked to other authorities, including the Federal Rules of Evidence 803(7) and case law from other courts, for the proposition that the absence of a notation in a record may only be considered if it is first shown both that the record is complete and also that the fact would have been recorded had it been reported. The Federal Circuit then considered substantial sociological evidence, including studies by the Department of Defense and VA, to find that military sexual trauma is not normally reported. Accordingly, the Federal Circuit concluded that where an alleged sexual assault, like most in-service sexual assaults, is not reported, the absence of service records documenting the alleged assault is not pertinent evidence that the assault did not occur. Also, VA may not treat a claimant's failure to report an alleged sexual assault to military authorities as pertinent evidence that the sexual assault did not occur. This case is significant because the Federal Circuit made it clear that it is unreasonable to presume that sexual assaults would be reported to superior officers or that there would be records of unreported assaults; therefore, such evidence is not pertinent that the assault did not occur and will change how VA analyzes this issue.

- ▶ ***Johnson v. McDonald*, 762 F.3d 1362 (Fed. Cir. 2014):** In this case, the Federal Circuit reversed an *en banc* CAVC decision that had given deference to VA's interpretation of

the regulation pertaining to extra-schedular ratings, 38 CFR § 3.321(b). For background purposes, the provisions of 38 CFR § 3.321(b)(1) state, in pertinent part, as follows:

To accord justice ... to the exceptional case where the schedular evaluations are found to be inadequate, the Under Secretary for Benefits or the Director ... is authorized to approve on the basis of the criteria set forth in this paragraph an extra-schedular evaluation commensurate with the average earning capacity impairment due exclusively to the service-connected disability or disabilities. The governing norm in these exceptional cases is: A finding that the case presents such an exceptional or unusual disability picture with such related factors as marked interference with employment or frequent periods of hospitalization as to render impractical the application of the regular schedular standards.

When the Appellant's case was before the CAVC, he had argued that he was entitled to referral for consideration of an extra-schedular rating on either an individual basis for each of his service-connected disabilities involving his heart and right knee or on a collective basis for the two disabilities. The CAVC concluded that the wording in 38 CFR § 3.321(b) was ambiguous as to whether an extra-schedular rating is to be awarded on an individual basis or on the combined effect of a Veteran's service-connected disabilities. As such, the CAVC deferred to VA's interpretation of § 3.321(b) in the Veterans Benefits Administration Adjudication Procedure Manual (VBA Manual) Rewrite M21-1MR, which states that a claim is to be submitted for extra-schedular consideration "if the schedular evaluations are considered inadequate for an individual disability."

The Appellant appealed the CAVC's decision to the Federal Circuit, who agreed with the Appellant's interpretation of § 3.321(b), and concluded that the CAVC's interpretation of the regulation "contravenes the plain meaning of the regulation." The Federal Circuit explained that the plain meaning of the regulation provides for referral for extra-schedular consideration based on the collective impact of multiple disabilities, as the wording in the regulation uses the plural form of "evaluation," which "suggests that the regulation contemplates a situation in which evaluations assigned to multiple disabilities are inadequate." Additionally, it added that the plain language of the regulation was consistent with the language of 38 U.S.C. § 1155, the statute that authorizes the regulation. Specifically, this statute authorizes the Secretary to "adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries." Further, the Federal Circuit stated that the use of the language "disability picture" in § 3.321 referred to the "collective impact" of a Veteran's service-connected disability or disabilities. This case is significant because it is inconsistent with VA's understanding of the regulation as noted above and its current practice, and it requires VA to change the way it adjudicates claims involving extra-schedular consideration and evaluation under § 3.321.

- ▶ ***Wise v. Shinseki*, 26 Vet. App. 517 (2014):** The Appellant in this case appealed a decision that denied dependency and indemnity compensation based on service connection for the cause of the Veteran's death. The Board requested an advisory medical opinion to determine whether the Veteran's service connected posttraumatic stress disorder caused or aggravated the atherosclerotic heart disease which caused his death. The medical opinion was provided by a cardiologist, who specifically stated that she had "no formal training or background in [p]sychiatry other than the rudimentary month[-]long [p]sychiatry rotation in medical school

more than 25 years ago.” The cardiologist then referred to her “perspective of psychiatry” as that of a “relative lay person’s.”

The CAVC set aside and remanded the Board’s decision for failure to address whether the advisory medical opinion was provided by a competent medical professional. The CAVC noted that there was a presumption of competence in medical professionals chosen by VA to provide medical opinions, and that the Appellant had not challenged the medical professional’s competence before VA. However, the CAVC found that the medical professional had called her own competence into question. The CAVC therefore held that “where . . . a medical professional admits that he or she lacks the expertise necessary to provide the opinion requested by the Board . . . the opinion itself creates the appearance of irregularity in the process resulting in the selection of that medical professional that prevents the presumption of competence from attaching, and the Board must therefore address the medical professional’s competence before relying on his or her opinion.”

In addition, the Board found that medical literature evidence that was potentially favorable to the Appellant was of limited probative value because it espoused a medical principle that was not yet “generally accepted” in the scientific community. The CAVC found that this violated the benefit of the doubt rule and held that “the Board, when evaluating . . . evidence, cannot demand a level of acceptance in the scientific community greater than the level of proof required by the benefit of the doubt rule.” As noted in one of the seminal cases in Veterans law, this standard of proof is reflective of “the high esteem in which our nation holds those who have served in the Armed Services.” *Gilbert v. Derwinski*, 1 Vet. App. 49, 54 (1990). In this regard, the CAVC stated that “[b]y requiring only an ‘approximate balance of positive and negative evidence’ to prove any issue material to a claim for veterans benefits, 38 U.S.C. § 5107(b), the nation, ‘in recognition of our debt to our veterans,’ has ‘taken upon itself the risk of error’ in awarding such benefits.”

This case is significant as it creates an exception to the presumption of competence and provides additional guidance on how the Board can weigh medical evidence. It also provides a reminder on the deliberately unique standard of proof in Veterans law.

- ▶ ***Carter v. Shinseki*, 26 Vet. App. 534 (2014):** In this case, the Appellant pursued entitlement to service connection for degenerative disc disease of the lumbosacral spine. The Appellant had appealed a September 2009 Board decision to the CAVC. At this time, the Appellant obtained representation by an attorney, who continued to represent him throughout the remaining litigation. The parties entered into a joint motion for remand in June 2010, which was granted in July 2010. The Board denied the appeal the second time in a February 2011 decision. The Appellant again appealed to the CAVC, asserting three new errors, all of which were based on the record as it existed at the time of the first Board decision and which were not mentioned in the joint motion for remand or pled to the Board prior to the second decision.

The CAVC held that when an attorney-represented Appellant enters into to a joint motion for remand identifying specific Board issues and raises no additional issues on remand, the Board is required to focus on the arguments specifically advanced by the attorney in the motion. However, the CAVC may look to the terms of the joint motion for remand to determine the scope of the Board’s duty to search the record for other issues that are

reasonably raised by the record. The degree to which the joint motion for remand relieves the Board of its duties to search the record is determined by the terms of the joint motion for remand in the context of the other facts present in the case. The CAVC further held that “the parties must give clear direction to the Board of the errors that they agree are raised by the record and specify what further action the Board must take with respect to the claim.” This case is significant because while the agreement of the parties guides the scope of the Board’s review, it may also require the Board to once again review the record to determine if any issues were reasonably raised, even if not specified by the joint motion for remand.

- ▶ ***Tagupa v. McDonald, 27 Vet. App. 95 (2014)***: In this case, the Board denied the Appellant’s claim for basic entitlement to VA death benefits on the grounds that her deceased spouse did not have qualifying active service. The Board relied on a National Personnel Records Center (NPRC) finding that the decedent had not been a member of the Philippine Commonwealth Army, including the recognized guerrillas, in the service of the United States Armed Forces. However, the Board did not discuss whether the NPRC, as an agency of the National Archives Records Administration (NARA), was authorized to verify the decedent’s service, or whether such determinations fell solely within the province of the relevant service department (here, the Department of the Army). On appeal to the CAVC, the Appellant contended that, in instances when there was insufficient evidence of qualifying service under 38 CFR § 3.203(a)(1), VA was required to seek verification from the appropriate service department in accordance with 38 CFR § 3.203(c). In response, VA averred that the Army had delegated its authority in this regard via a 1998 memorandum of agreement (MOA), transferring responsibility for “providing reference services on the collection of Philippine Army files and archival holdings” to NARA indefinitely.

After taking judicial notice of the MOA, the CAVC found it was unclear whether this agreement delegated to NARA “the authority to make administrative determinations verifying service or...to act simply as a reference librarian.” Given the ambiguous language of the MOA, the CAVC reasoned that it was precluded from finding that the “Army [had] delegated its duty to make administrative determinations verifying service to NARA, or its agency, NPRC.” Moreover, absent such evidence of delegation, the CAVC found that it was bound by the “plain mandatory language” of 38 CFR §3.203(c), which states that VA “shall request verification of service from the service department.” Accordingly, as no request to the service department had been made, the CAVC held that the adverse Board decision should be set aside and that the appeal should be remanded so that the appropriate service verification efforts could be undertaken. This case is significant because VA must seek verification of service directly from the service department instead of via the NPRC.

- ▶ ***National Organization of Veterans Advocates, Inc. (NOVA) v. Secretary of Veterans Affairs, 725 F.3d 1312 (Fed. Cir. 2013)***: Although this case was decided in August 2013 (FY 2013), implementation of the decision crossed well into FY 2014. In this case, NOVA petitioned the Federal Circuit to review an immediately effective rule promulgated by VA that stated that certain regulatory provisions regarding the duties of a VA employee conducting a hearing did not apply to hearings before the Board. During the course of proceedings before the Federal Circuit, VA agreed to repeal the rulemaking, finding it procedurally invalid, and, with NOVA’s agreement, crafted a remedial plan to address any potential prejudice that may have been caused to appellants by application of the rulemaking in Board decisions. The Federal Circuit approved the plan and concluded that it was not necessary to impose sanctions against VA.

At the end of FY 2013, the Board, using search criteria outlined in the approved plan, identified and sent notice letters to 1,023 appellants. These notice letters provided appellants with the opportunity to have the affected Board decision vacated and the option to appear at a new hearing and/or to submit new evidence, followed by issuance of a new Board decision. Of the 1,023 appellants notified, 380 (37 percent) requested that further action be taken in their cases. During FY 2014, the Board continued implementation of the plan by vacating affected Board decisions, scheduling and conducting requested hearings, and issuing new decisions.

The Board's Goals for Fiscal Years 2015 and 2016

The Board is prepared to meet the challenge of transforming into a 21st century organization that will increase the number of Veterans served, increase efficiency in the appeals system, and leverage intra-Departmental partnerships to better serve Veterans. These goals will be achieved through the coordinated efforts of all employees, each of whom is expected to maintain the core values of integrity, commitment, advocacy, respect, and excellence in all actions.

1. Increase the Number of Veterans Served and Optimize Accuracy

In the coming year, the Board will continue to focus on maximizing the number of Veterans and family members served through issuance of appeals dispositions by using a multi-pronged strategic approach. Specifically, the Board will leverage existing resources by concentrating on the following:

- ▶ **Internal training:** Continued training efforts in the new fiscal year will provide the Board's VLJs and attorneys with the latest information on a variety of legal and medical topics, and will enable the Board to maintain its high quality/accuracy rating, which was an impressive 94.7 percent in FY 2014.
- ▶ **Targeted intra-Departmental training:** As in FY 2014, in FY 2015, the Board will continue coordinating with VBA on joint training efforts. In FY 2014, the Board provided jointly approved training to RO staff on topics of interest identified by the Board's Office of Quality Review and by VBA, using both in-person training during Travel Board trips and virtual training leveraging VA's VTC technology. The Board will also continue to work closely with VBA to assist with the shared goal of resolving appeals at the earliest stages of the appeals process, including the period of time when an appeal is still pending at VBA. Additionally, the OLKM and Quality Review staffs of both the Board and VBA will continue to work together to identify trends and target training to common issues, and will continue to assist VHA with training efforts focused on training clinicians who provide examinations in conjunction with compensation claims on the legal requirements of such exams. These efforts will help ensure that claims are developed properly at the local level in the first instance, ultimately decreasing wait times for final decisions.

The Board will also continue to closely track the reasons for remand in those cases that must be remanded for further development, and make that data available to all VA components in the adjudication system for management and training purposes. In addition, the Board's OLKM and Office of Quality Review will continue to engage in extensive liaison efforts with VBA's AMC in FY 2015. Joint training is planned for FY 2015 to address and resolve issues pertaining to efficient processing of remands, to include drafting appropriate remand instructions and identifying when an appeal is ready to be returned to the Board for a final decision.

- ▶ **Utilizing a robust Flexiplace Program for employees:** Since 2005, the Board has served as a telecommuting model for other offices within the Department with its "Flexiplace" program. This program enables the Board to attract and retain attorneys as an employer of choice. In connection with this program, the Board has successfully implemented a number of data security safeguards, such as encryption software for Board laptops used by Flexiplace program participants and locked cabinets at the primary residence for the laptop and claims folders. Each Flexiplace participant agrees to abide by the rules of the program, which include strict safeguards to protect sensitive data. In FY 2014, over 190 (approximately 30 percent) of the Board's employees telecommuted in some capacity. Looking ahead to FY 2015, commensurate with the Board's recent growth in staffing, the Board will invite expanded participation in this program.

- ▶ **Strengthening partnerships across the VA enterprise:** As in previous years, the Board will continue to meet with representatives from VBA, VHA, and OGC on a monthly basis to discuss ways to improve the quality of services provided to Veterans. The Board will continue to contribute to these partnerships and play an active role in the VA community.

All these measures combined will work to increase the Board's decision output and improve accuracy, and will sustain fruitful, collaborative partnerships across the VA enterprise to better serve Veterans and their families.

2. Employee Engagement

FY 2014 marked a renewed focus to improve organizational climate and morale through grass roots initiatives such as the Survey Results task force. At the end of FY 2014, the Board also deployed the ICARE recognition program, which provides a forum for peer-to-peer recognition of accomplishments, achievements, and behaviors that reflect VA's Core Values of Integrity, Commitment, Advocacy, Respect, and Excellence. The Board will continue to build on these efforts and looks to expand on new ideas and opportunities for future employee engagement in the upcoming fiscal years.

3. Advocate for Legislative Initiatives

As discussed above, in FY 2014, the Secretary submitted a number of legislative proposals advanced by the Board to Congress, which seeks to streamline and improve timeliness in the processing of Veterans' benefits appeals. The Board intends to advance a variety of additional proposals in FY 2015 and FY 2016, and collectively, these proposals, if passed into law, will result in improved timeliness and efficiency of VA's adjudication of claims and appeals, both at the local and Board levels.

4. Increase Use of Video Teleconference Hearings

In FY 2014, the Board conducted 54 percent of its hearings via VTC. In FY 2015, the Board will continue to leverage technology to increase the use of VTC hearings. The Board, ROs, and select VA medical facilities have state-of-the-art VTC equipment and digital audio recording software for remote face-to-face hearings. The Board's offices house 13 video hearing rooms. The Board continues strategic outreach about the benefits of VTC technology to encourage more Veterans to elect the VTC hearing option. In this regard, generally, VTC hearings can be scheduled more quickly and with more flexibility than "Travel Board" hearings, thus reducing hearing wait times (saving more than 100 days on average) for Veterans who elect this option. Notably, there is no statistical difference in the dispositions (*i.e.*, allowance, denial, remand) of cases in which the Veteran appeared at an in-person hearing as opposed to a VTC hearing.

5. Efficiently Adjudicate Paperless Appeals

In FY 2014, the Board continued to adjudicate appeals and hold hearings in cases with paperless records. Although the Board's inventory of appeals in 2014 was still in large part paper-based, the Board received a steady increase in paperless appeals over the course of the year. At fiscal year-end, approximately 30 percent of the Board's active inventory consisted of entirely paperless appeals. To assist with its transition to paperless appeals processing, the Board stood up its own Paperless Appeals Office in February 2014. The Paperless Appeals Office has proven integral

in training, troubleshooting, and addressing intra-departmental issues arising from the increased paperless workload.

Some basic appeals functionality was built into VBMS in the first quarter of FY 2014, and the Board continues to work with VA appeals representatives in VBA, OGC, NCA, and VHA in an effort to identify enterprise-wide innovations to modernize the appeals process, and to prepare for a fully-paperless environment. In FY 2015, the Board will continue to provide VBMS training for employees and co-located VSOs, so that paperless appeals may be processed as efficiently as possible. The Board also will continue to review appeals in a hybrid environment of paper files and eFolders until all appeals records exist virtually in a single system.

Workforce Planning

As noted above, the Board successfully hired and on-boarded approximately 100 new FTE, the majority of which were attorneys. This unprecedented growth in Board staff, in addition to other transformational initiatives, will enable the Board to meet the rising number of appeals in future fiscal years. The Board remains able to attract high-caliber attorneys and administrative personnel because the mission to serve Veterans is one that is particularly desirable to those seeking a career in public service.

The Board is dedicated to achieving the goal of making VA an employer of choice for its employees. To this end, as in FY 2013, in FY 2014 the Board undertook an aggressive campaign to increase participation in the 2014 VA AES – a survey that collects information on employee perceptions of the workplace and satisfaction at work. This campaign was a success, resulting in an unprecedented response rate of 96.1 percent, one of the highest in the Department. All levels of Board management will work together to analyze the Board’s 2014 VA AES results and implement improvements as needed in FY 2015 based on these results.

Additionally, the Board has established itself as a workplace where diversity is valued, and employees are motivated to contribute the full extent of their knowledge, skills, and experience to the benefit of the organization. Notably, during FY 2014, the Board engaged VA’s Chief Diversity Educator to assist with the development and facilitation of an organizational climate group, which provided all levels of staff a confidential forum in which to discuss areas of concern, and a conduit to the Board’s senior leadership. Moreover, in matters of recruitment and retention, the Board continues to maintain an in-house program for all employees regarding issues of diversity and inclusion that illuminates the goals in place for sustaining a diverse workforce. Further, one of the Board’s SES serves as a standing member on the VA Diversity Committee and the Subcommittee on Emerging Issues.

Finally, in FY 2014, the Board continued to offer its internal leadership program known as the “Shadow Program,” which aims to develop the leadership skills of junior attorney and administrative staff by providing a more global view of the Board and its role within the Department. A week-long session is offered to staff that are competitively selected to participate, and each selectee gains exposure to the daily management and operations of the Board. Many components of the Board are involved in the program, including the Office of the Chairman, MPA, and all parts of the Appellate Group. The Board also continues to send high performing attorneys, VLJs, and administrative professionals to leadership seminars and programs offered through the Office of Personnel Management’s Federal Executive Institute and its Management Development Centers. These robust training courses are an integral part of the Board’s commitment to developing its future leaders.

PART II

STATISTICAL DATA

Fiscal Year 2014 Information

The following information is required by 38 U.S.C. § 7101(d)(2):

38 U.S.C. § 7101(d)(2)(A)

Number of cases formally appealed to the Board (Substantive Appeal (VA Form 9) filed, but not yet certified and docketed at the Board): **47,065**

Number of appeals physically received at the Board and docketed during FY 2014: **47,048**

38 U.S.C. § 7101(d)(2)(B)

Cases pending (certified) before the Board at the start of FY 2014: **60,365***

Cases pending (certified) before the Board at the end of FY 2014: **66,778***

Cases certified and physically received at the Board at the end of FY 2014: **38,675**

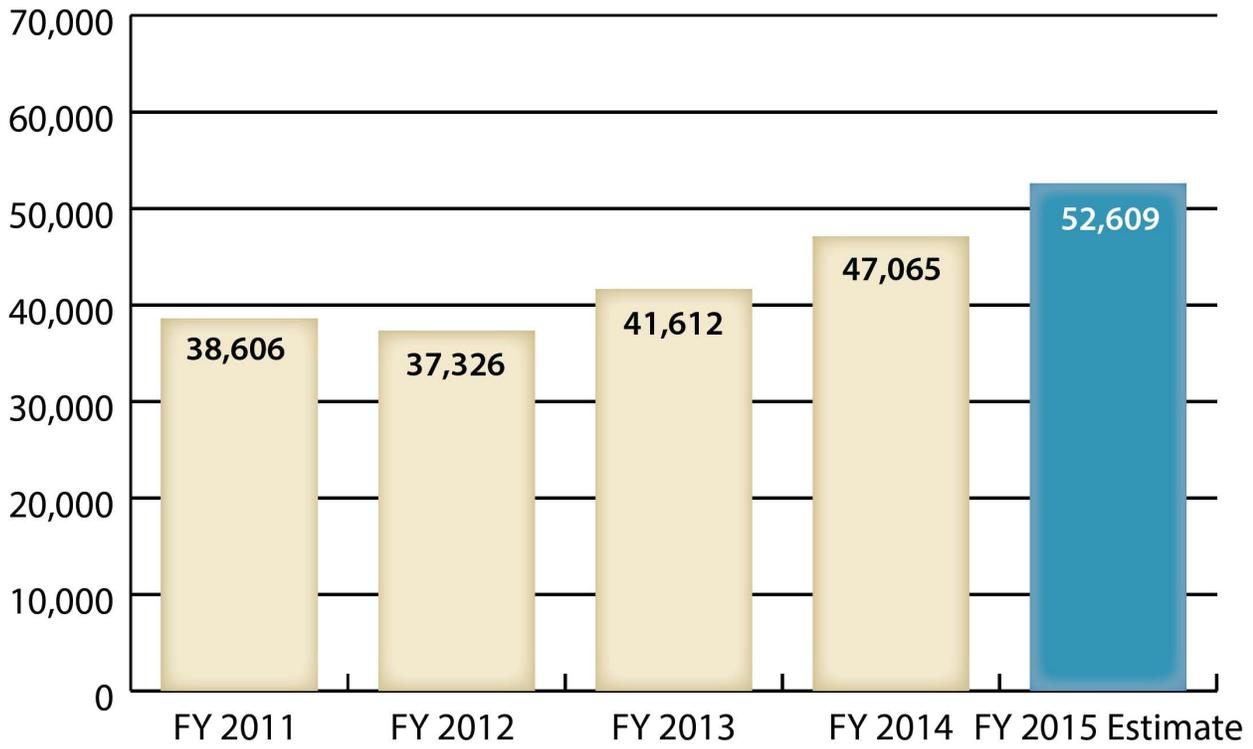
*Includes certified appeals pending in the field awaiting hearings, as well as cases docketed and physically pending at Board.

38 U.S.C. § 7101(d)(2)(C)

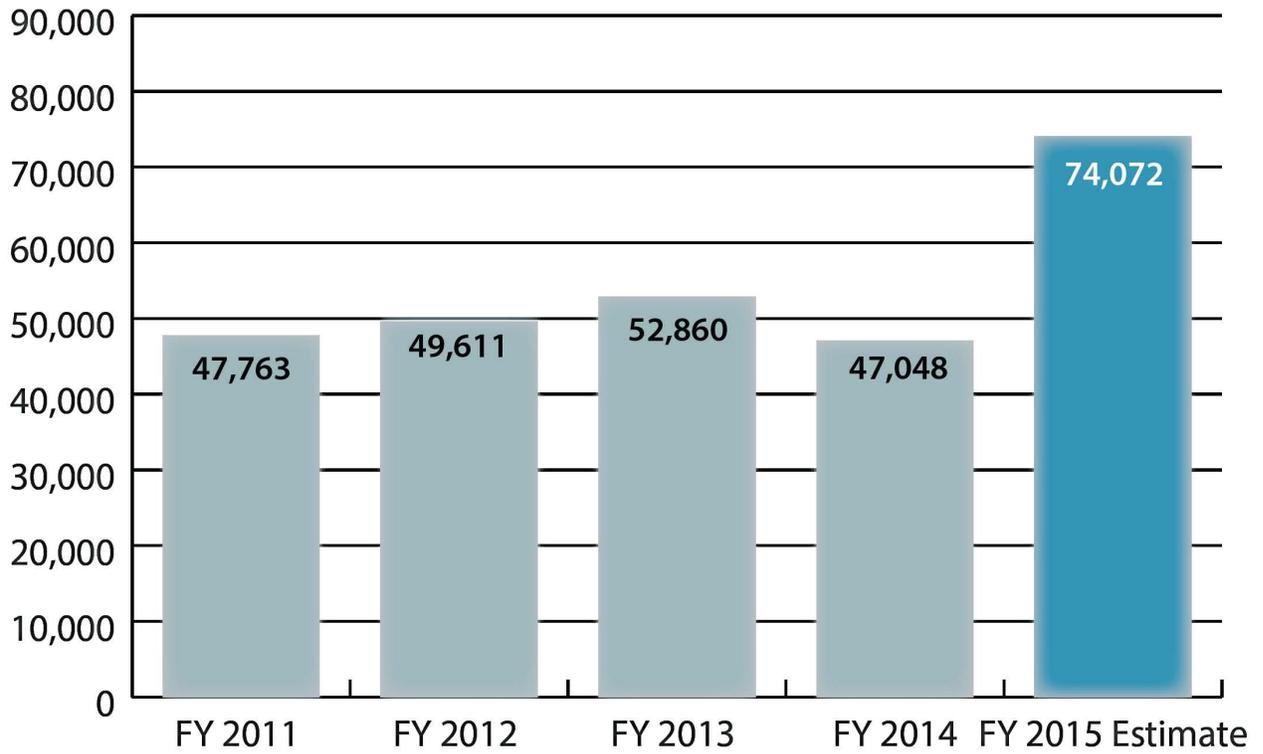
Number of Substantive Appeals (VA Form 9) filed at the Agency of Original Jurisdiction (AOJ) and cases received at Board during each of the 36 months preceding FY 2014.

Substantive Appeals (VA Form 9) Filed					Cases Received at Board			
Month	FY 2011	FY 2012	FY 2013	FY 2014	FY 2011	FY 2012	FY 2013	FY 2014
October	3,693	2,804	3,900	3,133	3,907	2,917	4,864	3,234
November	3,392	3,033	3,057	3,109	3,949	2,891	4,922	3,544
December	3,103	2,936	3,053	3,257	3,171	3,280	3,454	3,787
January	2,957	2,617	3,730	3,909	3,359	5,648	4,386	3,230
February	2,909	2,460	3,340	3,861	3,514	3,378	4,467	3,011
March	3,670	3,371	3,254	4,217	4,538	4,198	4,975	3,926
April	3,280	3,138	3,588	4,796	4,269	4,774	5,256	3,934
May	3,464	3,545	4,030	4,688	4,555	5,000	4,667	4,265
June	3,610	3,311	3,072	4,618	3,934	4,228	4,309	4,250
July	2,833	3,361	3,611	4,135	4,010	4,478	4,183	3,943
August	2,884	3,483	3,478	3,539	4,131	4,466	3,907	4,658
September	2,811	3,267	3,499	3,803	4,426	4,353	3,470	5,266
FY Total	38,606	37,326	41,612	47,065	47,763	49,611	52,860	47,048

Substantive Appeals Filed at AOJ (VA Form 9) FY 2011 - FY 2014



Cases Received at Board FY 2011 - FY 2014



38 U.S.C. § 7101(d)(2)(D)

The average length of time between the filing of an appeal (*i.e.*, Substantive Appeal (VA Form 9)) at the AOJ and the Board’s disposition of the appeal was 1,038 days in FY 2014. **Notably, the Board only controlled 34 percent of that time period in FY 2014.** As reflected in the chart below, the average time between the time that an appeal was physically received and docketed at the Board to disposition was 357 days. The chart also provides the average processing time between other distinct steps within the multi-step appeals process that take place at the AOJ or VBA level.

Time Interval	Responsible Party	Average Elapsed Processing Time	
Notice of Disagreement Receipt to Statement of the Case	VBA	330 days	} AOJ
Statement of the Case Issuance to Substantive Appeal (VA Form 9) Receipt	Appellant	39 days	
Substantive Appeal Receipt to Certification and Receipt of Appeal at the Board	VBA	681 days	
Receipt of Certified Appeal to Issuance of Board Decision*	Board	357 days	} Board
Average Remand Time Factor	VBA	311 days	} AOJ

*This includes the Board’s cycle time of 202 days. Cycle time measures the length of time from when an appeal is physically received at the Board until Board disposition, excluding the time the case is with a VSO representative for preparation of written argument.

38 U.S.C. § 7101(d)(2)(E)

The number of members of the Board at the end of FY 2014: **64 members**

The number of professional, administrative, clerical and other personnel employed by the Board at the end of FY 2014: **614 employees (not including 64 members above)**

38 U.S.C. § 7101(d)(2)(F)

Number of acting members of the Board during FY 2014: **45**

Number of cases in which acting members participated: **7,531**

38 U.S.C. § 7101(c)(2)

Number of acting members of the Board in terms of full-time employee equivalents: **12**

Projections for Fiscal Years 2015 and 2016

The following information is required by 38 U.S.C. § 7101(d)(3):

38 U.S.C. § 7101(d)(3)(A)

Estimated number of cases that will be appealed to Board*:

Fiscal Year 2015:	VA Form 9s filed at the AOJ:	52,609
	Cases docketed upon receipt at Board:	74,072
Fiscal Year 2016:	VA Form 9s filed at the AOJ:	59,439
	Cases docketed upon receipt at Board:	81,640

*Based on Managing for Results/Planning, Programming, Budgeting and Execution projections.

38 U.S.C. § 7101(d)(3)(B)

Evaluation of the ability of the Board (based on existing and projected personnel levels) to ensure timely disposition of such appeals as required by 38 U.S.C. § 7101(a):

The indicator used by the Board to forecast its future timeliness of service delivery is the Board's "response time" on appeals. By taking into account the Board's most recent appeals processing rate and the number of appeals that are currently pending before the Board, the Board response time projects the average time that will be required to render decisions on that group of pending appeals. For response time computation, the term "appeals pending before the Board" includes appeals at the Board and those that have been certified for Board review but remain in the field pending Board Travel Board or VTC hearings.

The following categories are calculated as follows:

$$\frac{\text{FY 2014 decisions (55,532) (divided by)}}{251 \text{ Work Days}} = 221.2 \text{ Decisions Per Work Day}$$

$$\frac{\text{Cases Pending at end of FY 2014 (66,778) + New Cases expected in FY 2015 (74,072)}}{251 \text{ Work Days}} = 140,850 \text{ Total Workload in FY 2015}$$

$$\frac{\text{Total Workload (140,850) (divided by)}}{\text{Decisions per Work Day (221.2)}} = 637 \text{ Work Days}$$

$$\frac{\text{Work Days (637) (divided by)}}{251 \text{ Work Days}} = 2.5 \text{ Years}$$

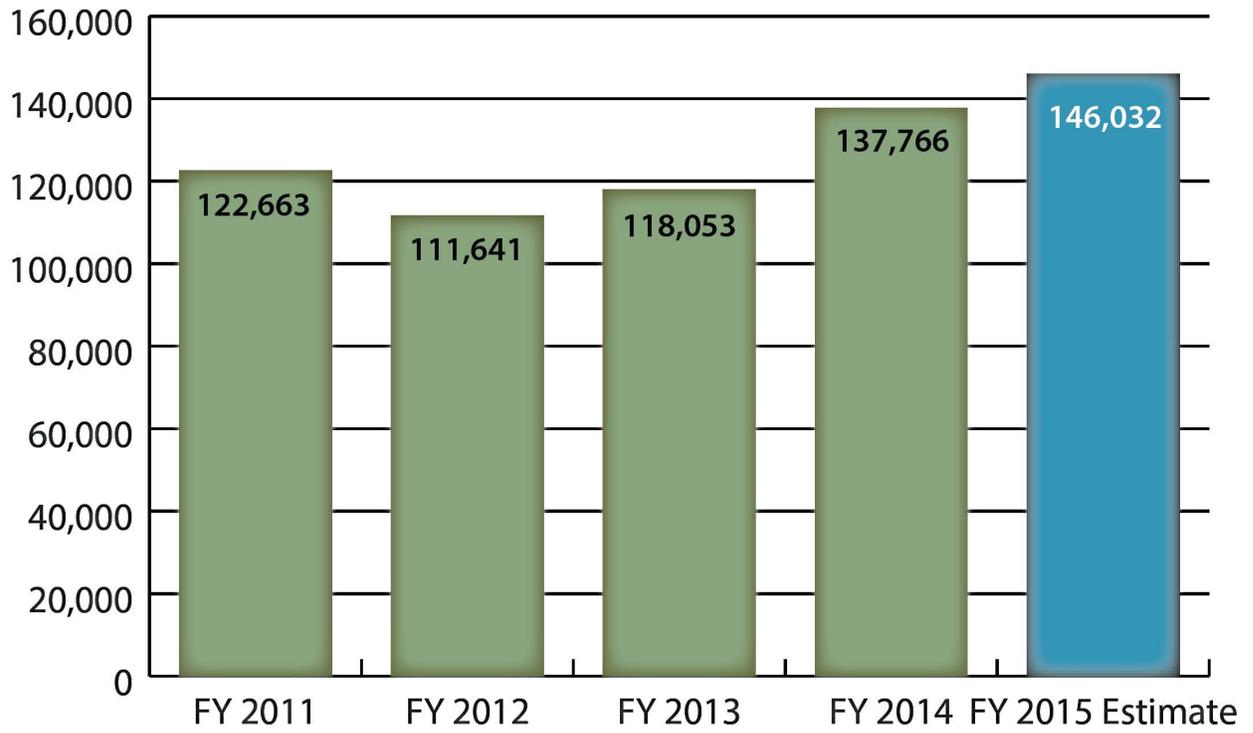
$$\text{Work Years (2.5) x 12 (months)} = 30 \text{ Months}$$

ADDITIONAL INFORMATION

Potential Board Workload in VBA

Number of Notices of Disagreement Received in the Field				
Month	FY 2011	FY 2012	FY 2013	FY 2014
October	12,587	9,678	10,909	12,753
November	11,248	8,563	9,006	10,783
December	9,719	8,450	8,053	10,051
January	10,130	9,490	9,468	11,258
February	9,233	9,094	8,883	10,545
March	11,041	10,208	9,743	12,300
April	9,414	9,847	10,056	12,314
May	9,829	10,101	10,130	12,705
June	10,152	9,303	10,498	13,099
July	9,513	9,131	11,093	11,910
August	10,562	10,065	11,232	10,828
September	9,235	7,711	8,982	8,323
FY Total	122,663	111,641	118,053	137,766

Notices of Disagreement Received FY 2011 - FY 2014



**Board of Veterans' Appeals
Board Dispositions by VA Program FY 2014**

APPEAL PROGRAM	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Burial Benefits	8	10.0%	18	22.5%	53	66.3%	1	1.3%	80	0.1%
Compensation	15,627	29.7%	24,261	46.1%	10,786	20.5%	1,982	3.8%	52,656	94.8%
Education	99	16.2%	184	30.1%	313	51.2%	15	2.5%	611	1.1%
Insurance	0	0.0%	1	16.7%	4	66.7%	1	16.7%	6	0.0%
Loan Guaranty	3	10.0%	12	40.0%	13	43.3%	2	6.7%	30	0.1%
Medical	173	27.2%	218	34.3%	204	32.1%	40	6.3%	635	1.1%
Pension	87	12.6%	222	32.0%	346	49.9%	38	5.5%	693	1.2%
VR&E	5	10.9%	23	50.0%	16	34.8%	2	4.4%	46	0.1%
Other Programs	8	14.5%	22	40.0%	16	32.7%	9	16.4%	55	0.1%
BVA Original Jurisdiction	8	7.1%	4	3.5%	74	65.5%	27	23.9%	113	0.2%
NCA Burial Benefits	3	10.0%	4	13.3%	21	70.0%	2	6.7%	30	0.1%
Fiduciary	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Multiple Program Areas	170	29.5%	308	53.4%	88	15.3%	11	1.9%	577	1.0%
GRAND TOTAL	16,191	29.2%	25,277	45.5%	11,934	21.5%	2,130	3.8%	55,532	100.0%

**Board of Veterans' Appeals
Board Dispositions by Representation FY 2014**

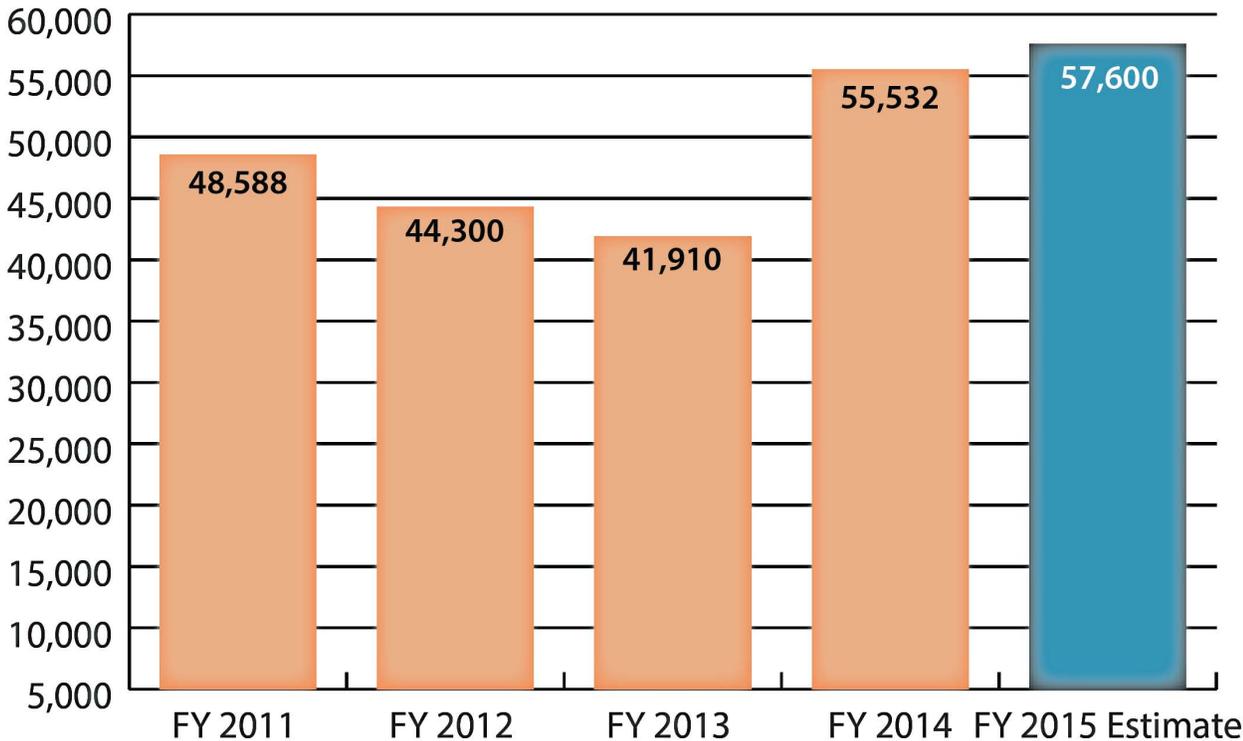
REPRESENTATION	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
American Legion	2,588	28.1%	4,269	46.4%	1,936	21.1%	402	4.4%	9,195	16.6%
AMVETS	58	27.0%	94	43.7%	48	22.3%	15	7.0%	215	0.4%
Disabled American Veterans	4,810	29.6%	7,534	46.4%	3,171	19.5%	709	4.4%	16,224	29.2%
Military Order of the Purple Heart	191	35.7%	217	40.6%	108	20.2%	19	3.6%	535	1.0%
Paralyzed Veterans of America	117	30.3%	171	44.3%	72	18.7%	26	6.7%	386	0.7%
Veterans of Foreign Wars	1,794	29.5%	2,699	44.4%	1,374	22.6%	211	3.5%	6,078	10.9%
Vietnam Veterans of America	318	29.5%	498	46.2%	213	19.8%	49	4.5%	1,078	1.9%
State Service Organizations	2,565	28.7%	3,963	44.4%	2,109	23.6%	286	3.2%	8,923	16.1%
Attorney	2,128	35.3%	2,888	47.8%	829	13.7%	191	3.2%	6,036	10.9%
Agent	186	30.3%	304	49.6%	98	16.0%	25	4.1%	613	1.1%
Other	282	28.1%	429	42.8%	254	25.3%	38	3.8%	1,003	1.8%
Wounded Warrior Project	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
No Representation	1,154	22.0%	2,211	42.1%	1,722	32.8%	159	3.0%	5,246	9.4%
GRAND TOTAL	16,191	29.2%	25,277	45.5%	11,934	21.5%	2,130	3.8%	55,532	100.0%

Board Decisions					
Fiscal Year	Decisions	Allowed	Remanded*	Denied	Other
2011	48,588	28.5%	44.2%	24.2%	3.1%
2012	44,300	28.4%	45.8%	22.5%	3.3%
2013	41,910	26.2%	45.6%	24.2%	4.0%
2014	55,532	29.2%	45.5%	21.5%	3.8%

*Notably, 64 percent of the Board’s remanded reasons are not the result of any mistake on the part of VA, and are often the result of additional development that VA must undertake due to the Veteran’s identification of additional evidence after the appeal has been transferred to the Board, or the submission of new evidence by the Veteran, which in turn triggers additional development as a result of VA’s statutory duty to assist.

The historical reporting system for Board decisions with multiple issues identifies the disposition of an appeal based on the following hierarchy: allowance, remand, denial, or other (*i.e.*, dismissals). When there is more than one disposition involved in a multiple issue appeal the “reported disposition” for Board Statistical Reports will be categorized based on the disposition hierarchy noted above.

Board Decisions FY 2011 - FY 2014



Board Operating Statistics

	FY 2011	FY 2012	FY 2013	FY 2014
Decisions	48,588	44,300	41,910	55,532
Case Receipts*				
Added to Docket	38,606	37,326	41,612	47,065
Received at Board	47,763	49,611	52,860	47,048
Cases Pending**	41,005	45,959	60,365	66,778
Hearings				
VACO	625	494	436	529
Video	4,355	4,868	5,778	5,881
Field	9,747	6,972	5,217	4,469
TOTAL	14,727	12,334	11,431	10,879
Decisions per FTE	90.8	87.0	78.8	88.1
Board FTE	535	510	532	631
Board Cycle Time	119	117	135	202
Cost per Case	\$1,574	\$1,671	\$1,848	\$1,607

*Case Receipts are composed of: (1) new cases added to the Board's docket; and (2) cases received at the Board, which consist of all cases physically received at the Board, including original appeals and cases returned to the Board's docket (*i.e.*, cases returned following remand development, cases remanded to the Board by the Court, and cases received for reconsideration or vacature actions).

**Pending figures include certified appeals pending in the field awaiting Board hearings, as well as cases pending before the Board.

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