

VA



U.S. Department
of Veterans Affairs

Board of Veterans' Appeals Annual Report



Fiscal Year 2015

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Department of Veterans Affairs

Board of Veterans' Appeals

**Annual Report
Fiscal Year 2015**

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Vice Chairman

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Principal Deputy Vice Chairman

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Deputy Vice Chairmen

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

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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 2015 and projected activities for FYs 2016 and 2017; Part II provides statistical information related to the Board's activities during FY 2015 and projected activities for FYs 2016 and 2017.

The appeals process in the Department of Veterans Affairs (VA or the Department) is a complex, non-linear process, which is set in law and is unique from other standard appeals processes across Federal and judicial systems. A feature of the current VA appeals process is a continuous open record that allows a Veteran, Survivor, or other appellant to submit new evidence and/or make new arguments at any point from the beginning to the end of the appeals process. Additionally, the duty to assist throughout the appeals process requires VA to develop further evidence on the Veteran's behalf and pursue new arguments and theories of entitlement. Each time new arguments are presented and evidence is added/obtained, VA generally must issue another decision considering that evidence, which protracts the timeline for appellate resolution.

The appeals process consists of multiple steps, most of which occur at the Agency of Original Jurisdiction (AOJ), which includes the Veterans Benefits Administration (VBA), Veterans Health Administration (VHA), the National Cemetery Administration (NCA), and the Office of General Counsel (OGC). While the vast majority (98 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 decision on behalf of the Secretary.



**U.S. Department of Veterans Affairs
Fiscal Year 2015
Veterans Law Judges**

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PART I

ACTIVITIES OF THE BOARD OF VETERANS' APPEALS FY 2015

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 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).

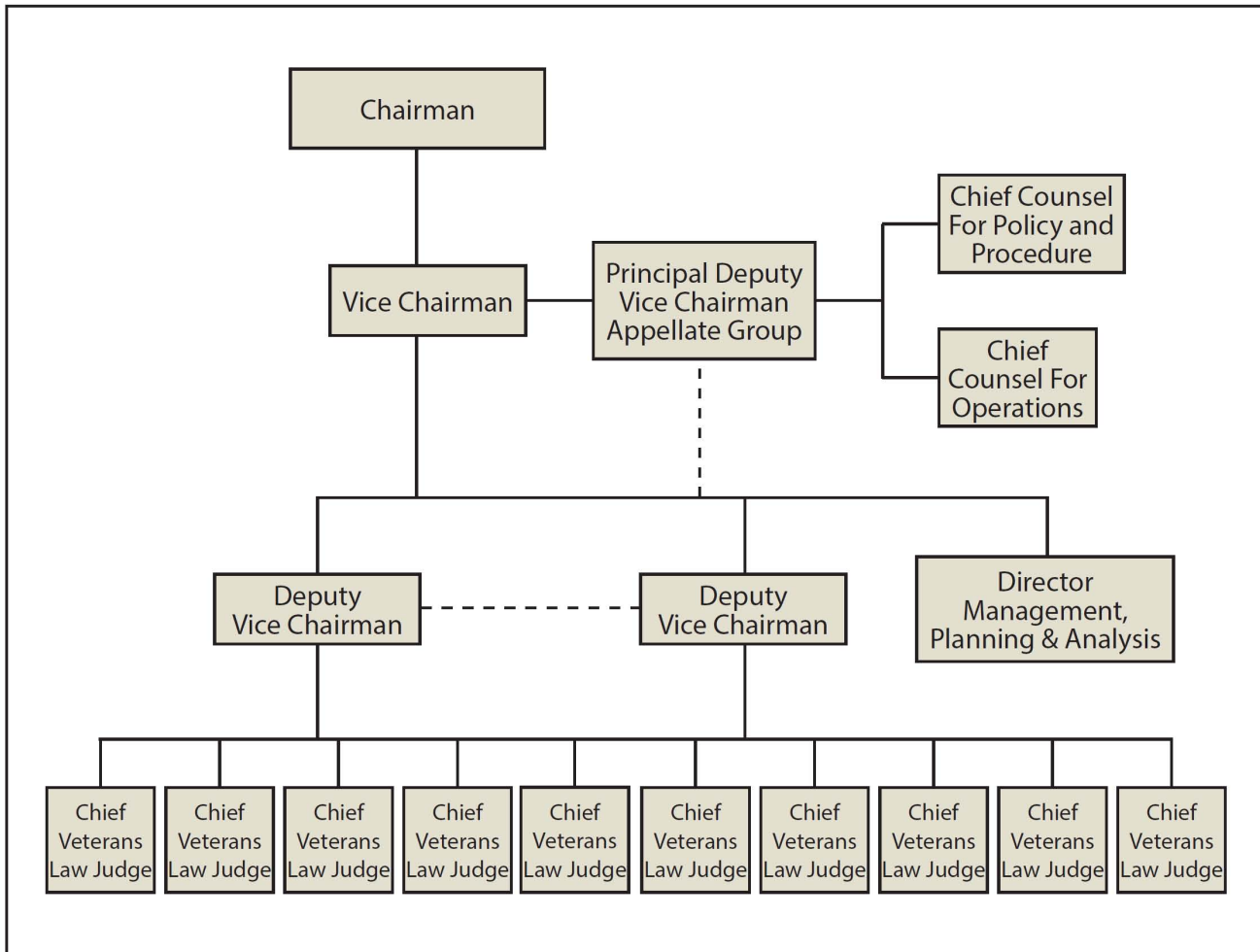
The Board is currently structured with four main components: the Office of the Chairman; the Appellate Group; the Office of Management, Planning and Analysis (MPA); and the Office of Veterans Law Judges (OVLJ). The Office of the Chairman consists of a Chairman (EX) and a Vice Chairman (Senior Executive 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 (OLKM), Labor and Employee Relations, Human Resources, 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, which includes the Hearing Branch, 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 450 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 2015 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 technological advancements and other efficiencies.

Service to Veterans

In FY 2015, the Board issued 55,713 decisions for Veterans and their families – 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 12,738 hearings, either conducted face-to-face at a VA facility, in-person at the Board’s location 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 regional offices (RO) to conduct one week of hearings at each site (known as “Travel Board” hearings), 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 certified to the Board (VA Form 8) 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 160 days in FY 2015. The Board's total time, which measures the average time from the date an appeal is certified to the Board (VA Form 8) until a decision is dispatched including the time the case is with a VSO representative for review and preparation of written argument, was 270 days in FY 2015.

The Board received 52,509 appeals in FY 2015. As VBA has become more efficient at processing claims through its transformation efforts, the Board is receiving an increase in appeals proportionate to VBA's higher output in claims decisions. Based on trends in case receipts developed jointly by the Board and VA's Office of Management (OM), the Board anticipates receiving 88,183 appeals in FY 2016, which includes original appeals from VBA; returned remands from VBA's Appeals Management Center (AMC); appeals from other elements of VA, including VHA, OGC, and NCA; and cases returned by the CAVC. 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 55,713 decisions in FY 2015, the Board's administrative support staff reviewed and processed 62,121 pieces of mail. Additionally, the administrative staff, including the Board's call center in Wilkes-Barre, Pennsylvania, answered 91,184 inquiries from Veterans or their representatives by phone, email, or written correspondence. The Board's Correspondence Unit issued 1,813 responses to Congressional inquiries and provided 1,691 appeal status updates to Veterans and Appellants. Furthermore, the Board requested 58 independent medical examination opinions and 670 VHA medical opinions on Appellant's cases.

Hearings

The Board is proud to have met and exceeded its FY 2015 goal of conducting at least 55 percent of hearings by VTC, holding a record 60 percent of hearings by VTC. The Board continued to encourage more widespread use of VTC hearings to reach Veterans and other Appellants at ROs and some VA medical centers. The Board held 12,738 total hearings, which represented a 17 percent increase in the number of hearings held in FY 2014 with the same number of VLJs. Moreover, the Board continued to survey hearing participants, with an impressive 95 percent of Veterans and 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 appeals processing. In FY 2015, the Board increased focused 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

The Board was able to hire staff to continue supporting its mission to serve more Veterans and their families. Specifically, in order to both maintain staffing levels and increase capacity where possible,

the Board hired 82 staff (including new positions and backfills for attrition), the majority of which were attorneys (68). Additionally, there is an ongoing recruitment of VLJs to reach the authorized level of 78 VLJs.

Training

In FY 2015, the Board continued to focus on methods to increase the quality of the decisions rendered while maintaining a high level of decision output. OLKM created targeted training for all employees based, in part, on trends gleaned from the Board's quality review process, as well as outcomes in cases heard before CAVC and the United States Court of Appeals for the Federal Circuit (Federal Circuit). Specifically, OLKM coordinated comprehensive training for Board counsel and VLJs, including courses on topics such as: 38 U.S.C. § 1151 claims, contested claims, claims involving herbicide agents, and state marriage laws, as well as continuous training for new hires. OLKM also designed and presented training targeted at reducing the number of cases remanded by the CAVC by focusing on how to properly apply precedential case law that most frequently serves as a basis for remand.

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 training for all staff regarding the Veterans Benefits Management System (VBMS), VA's electronic claims processing system, and provided training on the topics of psychological safety and effective communication skills. In addition, OLKM ensured that Board staff completed all VA-required on-line training courses, which are designed to support a strong management workforce.

Quality

In FY 2015, the Board continued to challenge employees to maintain high levels of quality, and through these efforts, achieved an accuracy rating of 93.98 percent in the decisions issued. 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) in 2002 and 2005. 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 continued to leverage opportunities to enhance efficiencies in its operations in order to provide better service to Veterans. The Board actively pursued several business process improvements aimed at streamlining the complex appeals adjudication process in order to improve service to Veterans and their families. Such initiatives included: engaging internal and external stakeholders in streamlining the appeals adjudication process; maximizing available hearing resources for Veterans; clarifying internal procedures to optimize efficient caseflow; and leveraging technology to better modernize appeals processing.

The Board also clarified the procedures for assigning cases for decision to ensure adherence to the statutory requirement of deciding appeals "in regular order according to its place on the docket." 38 U.S.C. § 7107(a). Notably, effective October 1, 2008, when an appealed case is received at the Board, the appeal is activated (or reactivated if a returned remand) and formally docketed using

a priority order commensurate with the date that the substantive appeal was received at a VBA RO. *See* Chairman’s Annual Report to Congress, Fiscal Year 2010, at 16. The Board’s docket is comprised of all activated appeals in its inventory; the docket changes constantly because new appeals are docketed and other appeals are dispatched on a daily basis. Because the Board’s active inventory of docketed appeals is fluid, since October 2014, the Board has managed docket order workflow by taking a weekly “point-in-time” snapshot of the oldest docketed appeals, and using that snapshot as a blueprint for distributing the appeals in docket order for adjudication that coming week. Once cases are distributed from Central Case Storage by oldest docket, docket date is not the controlling factor – time then controls.

In FY 2015, the Board continued to implement various technological and process improvements to meet the anticipated rise in the incoming workload, particularly in light of the transition to a fully paperless appeals system. To this end, the Board is leading “Appeals Modernization” to better serve Veterans and their families and provide timely and quality appeals decisions. As a part of this broad effort, information technology funds have been requested to develop robust paperless functionality in the VA appeals process. This is part of the Board’s multi-pronged approach to leverage technology, people, process improvements, and long-needed legislative reform to most effectively serve Veterans and their families in the processing of appeals. Initial key appeals-specific functionalities in the paperless environment will focus on seamless integration of systems, and key accountability and workability features.

Employee Engagement

The Board continued to make strides in improving its organizational culture and climate through several initiatives in 2015. Specifically, the Board continued its ICARE recognition program, which was first deployed at the end of FY 2014. This program 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. Through this forum, a number of Board employees were nominated by their peers and recognized in a Board-wide newsletter for demonstrating one of these Core Values.

Additionally, in FY 2015, the Board rolled out a special edition Board newsletter titled “Hear Ye, Hear Ye!” that provides follow up information to all staff regarding ideas, questions, and concerns raised via the Board’s Suggestion Boxes. With the support of management, this staff-led initiative informs all Board employees of those suggestions that were put to action (You’ve Been Served), those that are under review (What’s On the Docket), and those that cannot be acted upon for various reasons (We Are Estopped).

Further, in FY 2015, the Board’s staff-led Survey Results Task Force (Task Force), which was formed in FY 2014 to discuss and analyze the Board’s 2013 survey results (including the VA All Employee Survey (AES), the American Federation of Government Employees (AFGE) Local 17 survey, and the Federal Employee Viewpoint Survey) continued to meet to form suggestions to present to senior leadership with the goal of improving organizational culture.

The Task Force, which met on a weekly basis throughout the year, presented a number of proposed action plans for improving communication at the Board to the senior leadership team in FY 2014. The ideas centered around increasing the transparency, consistency, and availability of information, and enhancing trust relationships and psychological safety. All 13 of the Task Force’s proposals were implemented in FY 2015, including distributing meeting minutes to all staff from the Board’s weekly senior manager meeting; publishing news reports regarding projects in the Board’s Appellate

Group in the Board's weekly newsletter; sharing Board policies, procedures, and information regarding commonly addressed issues via a "Chairman's Corner" SharePoint Web site; providing a regular visual reminder for staff of the annual decision goal and the number of Veterans already served; providing 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; continuing to conduct 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; providing training for all staff on tactful, effective communication; and 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. Together, these measures have improved communication at the Board and will continue to be tracked in future years.

In FY 2015, the Task Force continued to meet on a regular basis to review the progress made with regard to improving communication throughout the organization and to analyze the Board's 2014 survey results, with the aim of identifying additional areas for possible organizational improvement. Board leadership continues to actively encourage and support the work of this group, as well as other focus groups, such as the Organizational Climate and VLJ focus groups.

The Board is also very proud to report that, through the grassroots efforts of an employee-led campaign, the Board had its third record-breaking year with regard to AES employee participation, with 96.6 percent of the Board's 680-person staff (year-end on-board) participating in the 2015 AES – the highest response rate in the Department. The Board looks forward to analyzing these results and using them at all levels to continue improving workplace culture.

MyVA Initiatives

In the fall of 2014, Secretary McDonald announced the transformational movement, MyVA, with an emphasis on executing and cascading the principles embedded in the Department's 2014-2020 Strategic Plan throughout the organization. The movement toward MyVA will cultivate a high performing organization required to serve Veterans. In support of VA's vision to provide a seamless, unified Veteran experience across the entire organization, focus is centered on five priorities: improving the Veteran experience, improving the employee experience, achieving support services excellence, establishing a culture of continuous performance improvement, and enhancing strategic partnerships.

The Board continued existing programs as well as implementing new initiatives that improve the Board's relationships with Veterans. For example, the Board seeks to improve the Veteran experience by leveraging information gathered in a new Veteran satisfaction survey that measures the customer experience with the Board's call center, hearings with VLJs, and the overall appeals process. The Board also implemented a number of employee and leadership driven initiatives to improve the employee experience through various forms of feedback opportunities, mentoring programs, and career development opportunities. The Board continued to promote performance enhancement via recognition programs, and various types of training programs for all employees, including participation on VA's Performance Improvement Support Council. The Board partnered with the MyVA Shared Services Team on enterprise improvements, such as integrating the Board's call center with existing call centers, and with the United States Digital Service (USDS) Team to assist in the Appeals Modernization initiative. Lastly, the Board developed internal and external strategic partnerships to engage on improving the Veteran experience through internal efficiencies and to explore potential legislative changes in the appeals process.

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, thereby improving the Veteran experience with this process. 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 continued to actively partner with VA stakeholders across the corporate enterprise, including VBA, VHA, OGC, NCA, the Office of Information Technology (OIT), 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 2015, the Board worked with VBA leadership to track the Travel Board and VTC hearing no-show rates in an effort to ensure that each hearing docket was fully maximized to serve as many Veterans and other Appellants as possible.

Additionally, as noted above, in FY 2015, the Board continued to lead “Appeals Modernization,” working closely with appeals representatives from VBA, VHA, OGC, NCA, and OIT. By focusing on VA appeals processing throughout the entire Department, Appeals Modernization leverages technology, people, process improvements, and long-needed legislative reform to most effectively serve Veterans and their families in the processing of appeals. As part of this effort, the Board, in partnership with VA’s Chief Technology Officer, leveraged a Presidential Innovation Fellow and the USDS Team, which is a small team of digital experts in the Executive Office of the President that is working to build the capacity of the Federal government to deliver world-class services to the American people, to lead the technical approach of the Appeals Modernization effort. The USDS Team that has been assigned to VA consists of seasoned engineers, designers, and product managers from some of the best-known companies in the private sector. To learn more about USDS, please visit: www.whitehouse.gov/digital/united-states-digital-service.

The Board also continued to work with VHA to improve training for clinicians on the legal adequacy for compensation adjudications.

During FY 2015, the Board continued to send 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 seeks to ensure that full development of an appeal is completed by VBA prior to that appeal reaching the Board.

The Board also played an integral role in many intra-Departmental working groups during FY 2015. Consistent with the Department’s move to paperless claims and appeals processing, and in an effort to increase efficiency of mail processing, the Board worked with VBA’s Office of Business Process Integration to transition to centralized mail. The Board also coordinated with VBA’s Veterans Relationship Management Program Office to ensure that Veterans receive accurate, meaningful information through eBenefits concerning the status of appeals pending within the Department.

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 to collaborate and update VSOs on activities and matters of general interest. These meetings address appeals issues raised by representatives and also facilitate the exchange of ideas and information. VSOs are also invited 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 2015, the Board continued to facilitate the collection and donation of comfort items for distribution to Veterans at the Washington, DC, VA Medical Center (VAMC), 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 collected 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. Members of LI also volunteer at the USAFRH's Spring Fling to assist with activities organized for Veterans and their families. 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.

Significant Judicial Precedent and Its Effect on the Board

Throughout FY 2015, the CAVC and the Federal Circuit issued many significant decisions that impacted the way VA adjudicates appeals, including the following:

- ▶ ***Scott v. McDonald*, 789 F.3d 1375 (Fed. Cir. 2015):** In this case, the incarcerated Appellant requested a Board hearing and noted that his next potential opportunity for parole was over a year later. The RO scheduled the hearing in the interim and the Appellant did not attend. The Appellant requested a rescheduled hearing, but the Board denied the Appellant's request and denied the appeal on the merits. The claim was appealed to the CAVC, where the Appellant was represented by counsel. The hearing issue was not raised to the CAVC, but the case was remanded on other grounds. The Board then remanded the case to the RO for additional development while noting that the Appellant "has not renewed his request" for a hearing. The Board eventually denied the claim again. During the second appeal to the CAVC, the Appellant argued that the Board erred by denying him his right to a hearing. The CAVC refused to consider the argument because it had not been raised either in the prior CAVC appeal or to the Board during the intervening proceedings.

The Federal Circuit affirmed the CAVC. In doing so, it acknowledged that the doctrine of issue exhaustion was appropriate both before the Board and the CAVC in certain circumstances. However, the Federal Circuit also noted that the Board has a special obligation to read filings liberally, whether submitted by counsel or pro se appellant. The Federal Circuit then analyzed what constituted a liberal construction for these purposes,

stating: “There is a significant difference between considering closely-related theories and evidence that could support [an Appellant’s] claim for disability benefits and considering procedural issues that are collateral to the merits.” The Federal Circuit stated that, for procedural issues, an Appellant’s interest “may be better served by resolution of his claims” rather than by a remand that may not change the final outcome. As a result, the Federal Circuit stated: “Having initially failed to raise the procedural issue, the [Appellant] should not be able to resurrect it months or even years later when, based on new circumstances, the [Appellant] decides that raising the issue is now advantageous.” Accordingly, the Federal Circuit held: “[t]he Board’s obligation to read filings in a liberal manner does not require the Board or the [CAVC] to search the record and address procedural arguments when the [Appellant] fails to raise them before the Board.”

This case is significant as it relieves the Board from searching the record to address procedural arguments not raised by the Appellant.

- ▶ ***Nohr v. McDonald*, 27 Vet. App. 124 (2015):** In this case, the Board denied disability compensation benefits for a dysthymic disorder based on a finding that clear and unmistakable evidence demonstrated that the dysthymic disorder preexisted active duty service and was not aggravated by service, relying in part on a VHA specialist’s opinion. Prior to issuing its decision, the Board provided the Appellant and his representative with a copy of the VHA specialist’s opinion. In response, the Appellant submitted questions and requests for documents described as “interrogatories” for the specialist to answer concerning her opinion. In the alternative, the Appellant requested that the Board subpoena the specialist to appear at a personal hearing. In its decision denying disability compensation benefits for a dysthymic disorder, the Board denied the Appellant’s requests to have the specialist answer interrogatories or to issue a subpoena.

On appeal to the CAVC, the Appellant contended, in relevant part, that the Board violated his Fifth Amendment procedural due process rights when it declined to either require the specialist to respond to the set of interrogatories or issue a subpoena ordering the specialist to appear for a hearing. VA countered that the Appellant had no constitutional right to submit interrogatories to doctors who provide VA medical opinions, or to otherwise confront doctors at a hearing.

The CAVC determined that the submission of interrogatories to the Board reasonably raised issues concerning the competence of the VHA expert, the adequacy of her opinion, and VA’s duty to assist. With respect to the expert, the CAVC found a reasonable basis for the Appellant’s request for the expert’s curriculum vitae, especially in light of the examiner’s identification of a “personal limitation” in providing the opinion. Concerning the duty to obtain records, the CAVC found that the Board did not adequately address why the Appellant’s specific requests in the interrogatories for documents “potentially held by [the expert], a VHA employee” did not obligate VA to make a reasonable effort to assist him in obtaining those records. The CAVC stressed that the Board “reflexively reacted” to the term “interrogatories,” and as a result, failed to consider the requests in light of the duty to assist. The CAVC ultimately declined to discuss some of the Appellant’s arguments, including his Fifth Amendment due process claims, finding that addressing those arguments was unnecessary in light of the holding that VA had not complied with the statutory and regulatory duty to assist.

This case is significant because it clarified that VA's duty to assist may include efforts to respond to issues reasonably raised by the Appellant via submissions (to possibly include interrogatories) to the Board.

- ▶ ***Wages v. McDonald*, 27 Vet. App. 233 (2015):** The Board found that the Appellant met the schedular requirements for a total disability rating based on individual unemployability (TDIU) under 38 CFR § 4.16(a) as of December 11, 2009, and further found that he had been unable to secure or follow a substantially gainful occupation since that time; accordingly, he was awarded a TDIU, effective December 11, 2009. The Board also found that “medical and lay evidence suggests that the [Appellant] was unable to work prior to December 11, 2009[,] due to service-connected disabilities,” but the Board concluded that it lacked the authority to award TDIU for this period, because the Appellant did not meet the schedular criteria for TDIU in 38 CFR § 4.16(a) and remanded the matter to the Director of Compensation Service (Director) for extra-schedular consideration. The Director denied extra-schedular TDIU under 38 CFR § 4.16(b) and the RO implemented the Director’s denial in a supplemental statement of the case. The Board then denied extra-schedular TDIU relying, in part, on the Director’s opinion.

At the CAVC, the Appellant argued that the Board erred in relying on the Director’s decision as evidence against his appeal for extra-schedular TDIU and that the Board owed no deference to the Director’s opinion and must review this decision *de novo*. The Secretary argued that the Director’s decision is not evidence and that the Board may only review the factual basis of the Director’s decision for accuracy and completeness, leaving the Board without authority to overturn the Director’s policy decision.

The CAVC rejected the Secretary’s argument, and held that the issue of entitlement to extra-schedular TDIU was not a policy question, but was a question of law and fact that fell within 38 U.S.C. § 511(a). The CAVC held that “the policy decision was made when the Secretary promulgated a regulation mandating that all Veterans who are unemployable due to service-connected disabilities will be rated totally disabled, regardless of the schedular ratings assigned.” The CAVC also found that the Board erred as a matter of law in assigning weight to the Director’s decision. The CAVC stated that the Director’s decision is the *de facto* decision of the RO and is not evidence that can be weighed.

This case is significant because it establishes that the Board has jurisdiction to review *de novo* appeals concerning the matter of entitlement to extra-schedular TDIU after the Director has made a decision.

- ▶ ***Fountain v. McDonald*, 27 Vet. App. 258 (2015):** In this case, the Appellant appealed a decision of the Board that denied entitlement to service connection for tinnitus. The Board rejected the Appellant’s statements concerning the continuity of his symptoms after service based on the absence of complaints of tinnitus symptoms during service and for many years after service. It was also noted that he had not filed a claim for VA benefits for tinnitus during the 29 years that had elapsed since his separation from service, despite filing other claims for compensation during that time period.

In addressing whether tinnitus was an “organic disease of the nervous system” and therefore entitled to the presumptions of service connection contained in 38 U.S.C. § 1101(3) and 38 CFR § 3.309(a), the CAVC held that the phrase “organic disease of the nervous system”

is ambiguous. After finding the Secretary's position "not persuasive," the CAVC held that tinnitus is a disease, not a symptom, consistent with the Secretary's recognition of tinnitus as a disability in VA's Schedule of Rating Disabilities, and, at a minimum, is an organic disease of the nervous system where there is evidence of acoustic trauma. As a result, the CAVC determined that the appellant may establish entitlement to VA benefits based on chronicity or the continuity of his symptoms.

In addition, the CAVC reaffirmed that the Board may weigh a claimant's lay statements against the absence of contemporary medical evidence, but must first establish a proper foundation for drawing inferences against a claimant from an absence of documentation.

The CAVC also held that, based on guidance provided to VA examiners in VA Training Letter 10-02 and VA Fast Letter 08-10, the Board erred when it failed to consider whether the Appellant's tinnitus was secondary to his service-connected hearing loss.

This case is significant because the CAVC held that service connection for tinnitus may be established under 38 U.S.C. § 1101(3) and 38 CFR § 3.309(a).

- ▶ ***Gray v. McDonald*, 27 Vet. App. 313 (2015):** In this case, the Board denied entitlement to service connection for several disabilities claimed as due to in-service exposure to herbicides. The Board concluded that it was VA's policy that service on board a ship that anchored in Da Nang Harbor, in and of itself, does not constitute service in the inland waters of Vietnam for the purposes of applying the presumptive provisions of 38 CFR §§ 3.307, 3.309(e). In making this conclusion, the Board relied on a December 2008 Compensation and Pension Service (C&P) Bulletin, a September 2010 VBA Training Letter (Training Letter 10-06), the VA Adjudication Procedures Manual 21-1 Rewrite (M21-1MR), and the Federal Circuit's decision in *Haas v. Peake*, 525 F.3d 1168 (2008).

The CAVC vacated and remanded in part, holding that VA's interpretation of 38 CFR § 3.307(a)(6)(iii) designating Da Nang Harbor as an offshore, rather than an inland, waterway is inconsistent with the purpose of the regulation and does not reflect the Agency's fair and considered judgment. The CAVC pointed out that, although the herbicide exposure presumption is purportedly applied where there is evidence of spraying, the documents the Board relied upon are devoid of any indication that VA made a fact-based assessment of the probability of exposure in Da Nang Harbor from aerial spraying. Instead, Training Letter 10-06, the M21-1MR, and the December 2008 C&P Bulletin reflect that VA based its designation of Da Nang Harbor on geographical characteristics – depth and ease of entry – and not on spraying.

Although the CAVC found VA's definition of inland waterways irrational and not entitled to deference, it noted that VA retains discretionary authority to define the scope of the presumption. As such, the CAVC vacated the Board decision, and remanded the matter for VA to reevaluate its definition of inland waterways – particularly as it applies to Da Nang Harbor – and to define inland waterways in a manner consistent with the regulation's emphasis on the probability of exposure.

The Board's Goals for Fiscal Years 2016 and 2017

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 improve both the Veteran experience and the employee experience. 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 93.98 percent in FY 2015.
- ▶ **Targeted intra-Departmental training:** As in FY 2015, in FY 2016, the Board will continue coordinating with VBA on joint training efforts. In FY 2015, the Board provided jointly approved training to RO staff on topics of interest identified by the Board's OLKM and Office of Quality Review, and by VBA. 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, OLKM and the 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 2016.

- ▶ **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 2015, over 240 (approximately 35 percent) of the Board's employees telecommuted in some capacity.

- ▶ **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 2015 marked a renewed focus to improve organizational climate and morale through grass roots initiatives such as the Survey Results Task Force and other focus groups. The Board will continue to build on these efforts and looks to expand on new ideas in the upcoming fiscal years.

3. Advocate for Legislative Initiatives

As discussed above, in FY 2015, the Secretary submitted a number of legislative proposals advanced by the Board to Congress, which seek to streamline and improve timeliness in the processing of Veterans' benefits appeals. The Board intends to advance a variety of additional proposals in FY 2016 and FY 2017, and collectively, these proposals, if passed into law, will result in improved timeliness and efficiency of VA's adjudication of appeals, both at the local and Board levels.

4. Appeals Modernization

FY 2015 marked a significant transition to paperless appeals processing at the Board. The Board received a steady increase in paperless appeals over the course of the year, with paperless appeals constituting a majority of its active workload at the end of the fiscal year. The Paperless Appeals Office, established in February 2014, will continue to have a prominent role in training, troubleshooting, and addressing intra-Departmental issues arising from the shift to a paperless appeals workload.

Additionally, as noted above, the Board is pursuing enterprise-wide "Appeals Modernization" to better serve Veterans and their families and provide timely and quality appeals decisions. As a part of Appeals Modernization, information technology funds are being requested to develop and optimize paperless functionality in VA appeals processing. This effort is part of the Board's multi-pronged approach to leverage technology, people, and process improvements to most effectively process appeals. With FY 2016 IT funding enacted, the Department will be able to begin a multi-phase process of enhancing appeals functionality in the paperless environment.

These enhancements are necessary to keep pace with the transformation of benefits processing that has occurred on the front end (*i.e.*, claims) of the VA benefits system. Initial key appeals-specific functionalities in the paperless environment will focus on seamless integration of systems, and key accountability and workability features. This investment will allow the Department to contain and ultimately reduce the VA appeals inventory, which currently stands at over 427,000 appeals, and will also pay dividends in the out-years, as VA will be able to efficiently process future appeals workload.

Workforce Planning

As previously noted, the Board successfully hired and on-boarded approximately 82 new FTE in FY 2015, the majority of which were attorneys. 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, in FY 2015 the Board undertook an aggressive campaign to increase participation in the 2015 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 96.6 percent, the highest in the Department. All levels of Board management will work together to analyze the Board’s 2015 VA AES results and implement improvements as needed in FY 2016.

Additionally, the Board has established itself as a workplace where diversity and inclusion is valued, and employees are motivated to contribute the full extent of their knowledge, skills, and experience to the benefit of our organization. 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 2015, the Board continued to offer its internal leadership program known as the “Shadow Program,” which aims to develop the leadership skills of junior attorneys 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 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 Chairman’s Office, MPA, and the Appellate Group. The Board also continues to send high performing attorneys, VLJs, and administrative professionals to leadership seminars and programs, such as Leadership VA, 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 2015 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):	52,509
Number of appeals certified to the Board during FY 2015:	69,957*

38 U.S.C. § 7101(d)(2)(B)

Cases pending (certified) before the Board at the start of FY 2015:	66,778*
Cases pending (certified) before the Board at the end of FY 2015:	81,022*

*Includes certified appeals pending in the field awaiting hearings, as well as cases docketed and actually pending at Board. Beginning in FY 2015, the Board reported case receipts beginning with certification (Form 8) in the field. In prior years, case receipts only included physical receipt of cases at the Board. Case receipts include original appeals, remands, non-VBA receipts, and cases returned by the CAVC.

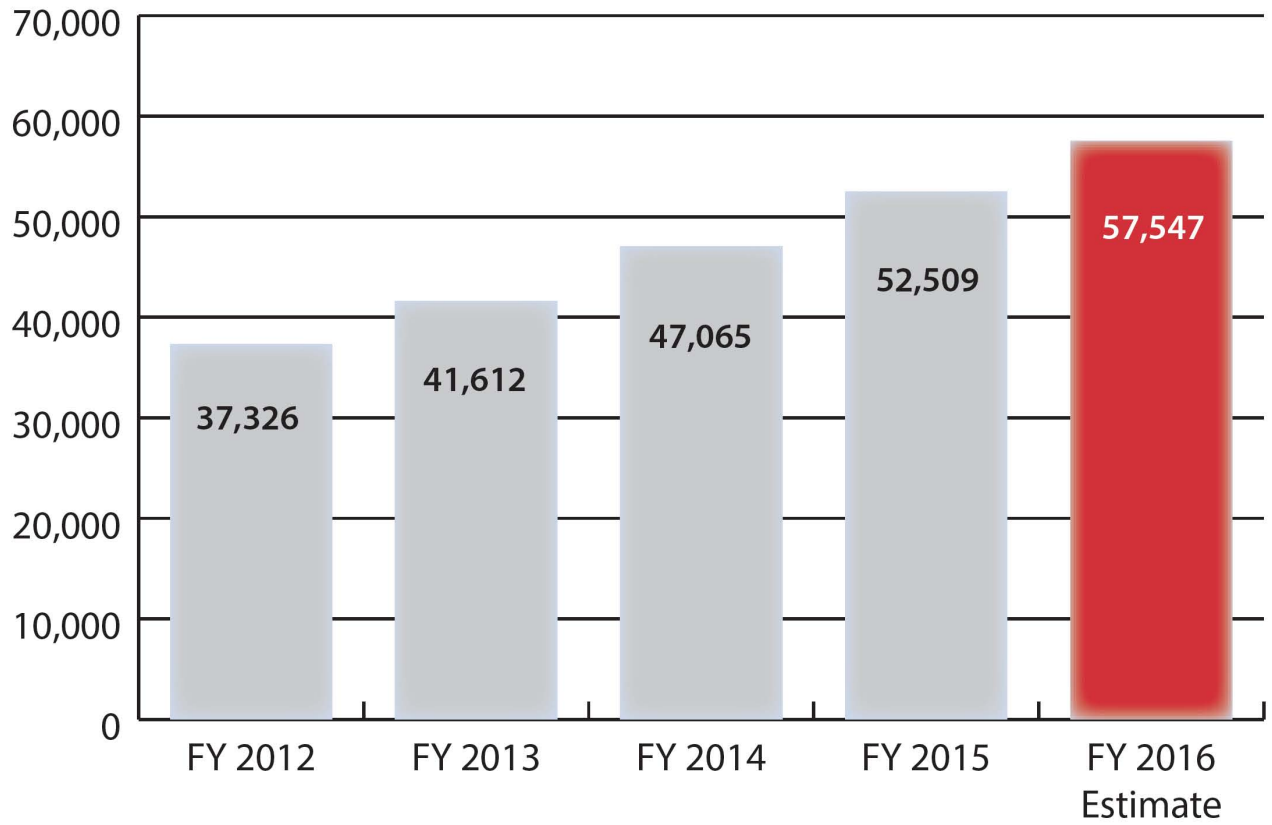
38 U.S.C. § 7101(d)(2)(C)

Number of Substantive Appeals (VA Form 9) filed at the AOJ and cases received at the Board during each of the 36 months preceding FY 2015.

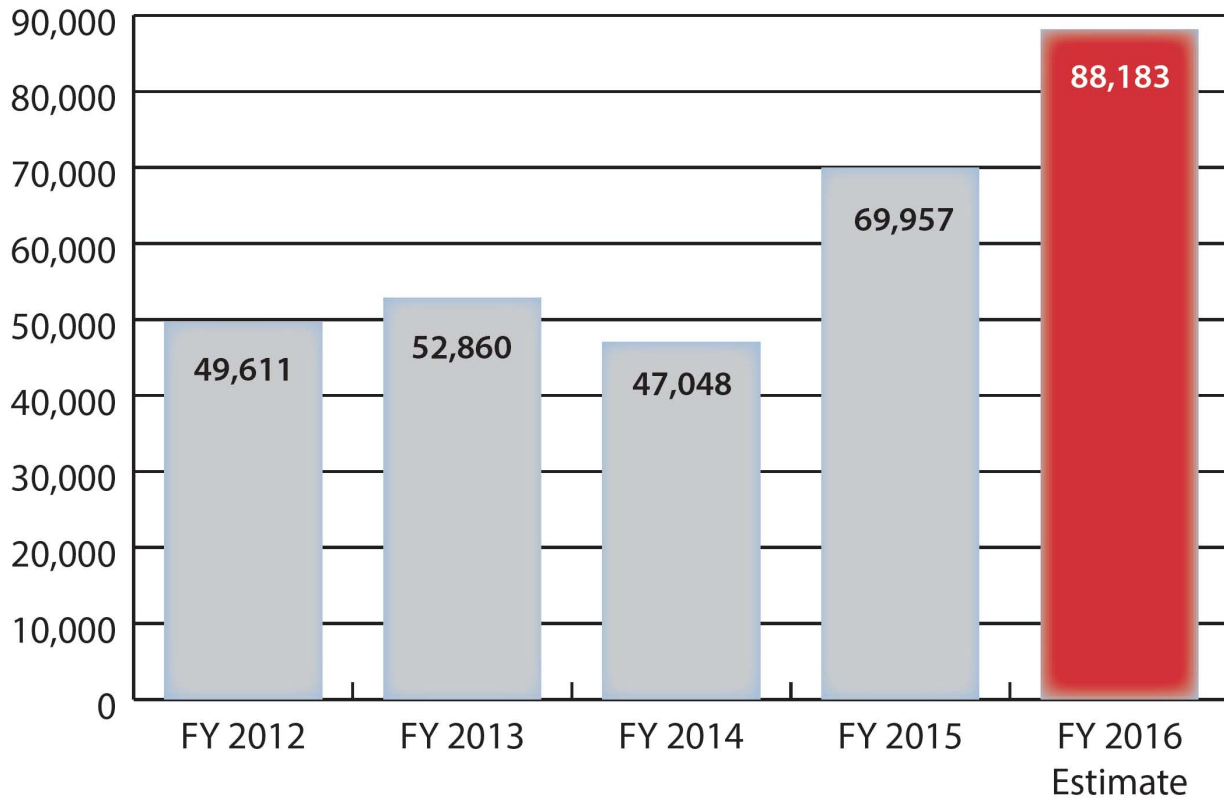
Substantive Appeals (VA Form 9) Filed					Cases Received at the Board*			
Month	FY 2012	FY 2013	FY 2014	FY 2015	FY 2012	FY 2013	FY 2014	FY 2015
October	2,804	3,900	3,133	4,724	2,917	4,864	3,234	8,089
November	3,033	3,057	3,109	3,564	2,891	4,922	3,544	4,365
December	2,936	3,053	3,257	4,327	3,280	3,454	3,787	4,577
January	2,617	3,730	3,909	4,271	5,648	4,386	3,230	4,971
February	2,460	3,340	3,861	3,262	3,378	4,467	3,011	4,914
March	3,371	3,254	4,217	4,455	4,198	4,975	3,926	6,376
April	3,138	3,588	4,796	4,674	4,774	5,256	3,934	5,960
May	3,545	4,030	4,688	4,622	5,000	4,667	4,265	5,396
June	3,311	3,072	4,618	4,893	4,228	4,309	4,250	6,595
July	3,361	3,611	4,135	4,749	4,478	4,183	3,943	5,823
August	3,483	3,478	3,539	4,389	4,466	3,907	4,658	6,527
September	3,267	3,499	3,803	4,579	4,353	3,470	5,266	6,364
FY Total	37,326	41,612	47,065	52,509	49,611	52,860	47,048	69,957

*Case receipts include original appeals, remands, non-VBA receipts, and cases returned by the CAVC. Beginning in FY 2015, the Board reported case receipts beginning with certification (Form 8) in the field. In prior years, case receipts only included physical receipt of cases at the Board.

Substantive Appeals Filed at AOJ (VA Form 9) FY 2012 - FY 2015



Cases Received at Board* FY 2012 - FY 2016



*Case receipts include original appeals, remands, non-VBA receipts, and cases returned by the CAVC. Beginning in FY 2015, the Board reported case receipts beginning with certification (Form 8) in the field. In prior years, case receipts only included physical receipt of cases at the Board.

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 1,029 days in FY 2015. As reflected in the chart below, the average time between an appeal that was actually received and docketed at the Board to disposition was 270 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	419 days	} AOJ
Statement of the Case Issuance to Substantive Appeal (VA Form 9) Receipt	Appellant	39 days	
Substantive Appeal Receipt to Certification of Appeal	VBA	537 days	
Certification of Appeal to Board Receipt of Certified Appeal	Board	222 days	} Board
Receipt of Certified Appeal to Issuance of Board Decision*	Board	270 days	
Average Remand Time Factor	VBA	255 days	} AOJ

***This includes the Board’s cycle time of 160 days.** Cycle time measures the time from when an appeal is actually received at the Board until a decision is reached, 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 2015: **63 members**

The number of professional, administrative, clerical and other personnel employed by the Board at the end of FY 2015: **617 employees**
(not including 63 members above)

38 U.S.C. § 7101(d)(2)(F)

Number of acting members of the Board during FY 2015: **38**

Number of cases in which acting members participated*: **5,349**

38 U.S.C. § 7101(c)(2)

Number of acting members of the Board in terms of full-time equivalent employees: **16**

*For this report, the number of cases in which acting members participated is defined as the number of dispositions issued by the acting members.

Projections for Fiscal Years 2016 and 2017

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 2016:	VA Form 9s filed at the AOJ:	57,547
	Cases certified to the Board:	88,183
Fiscal Year 2017:	VA Form 9s filed at the AOJ:	120,003
	Cases certified to the Board:	359,807

Note: Appeal receipts are contingent upon the rate of certification and transfer of cases by VBA and other AOJs to the Board. Case receipts include original appeals, remands, non-VBA receipts, and cases returned by the CAVC.

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 are held in the field pending Travel Board or VTC hearings.

The following categories are calculated as follows:

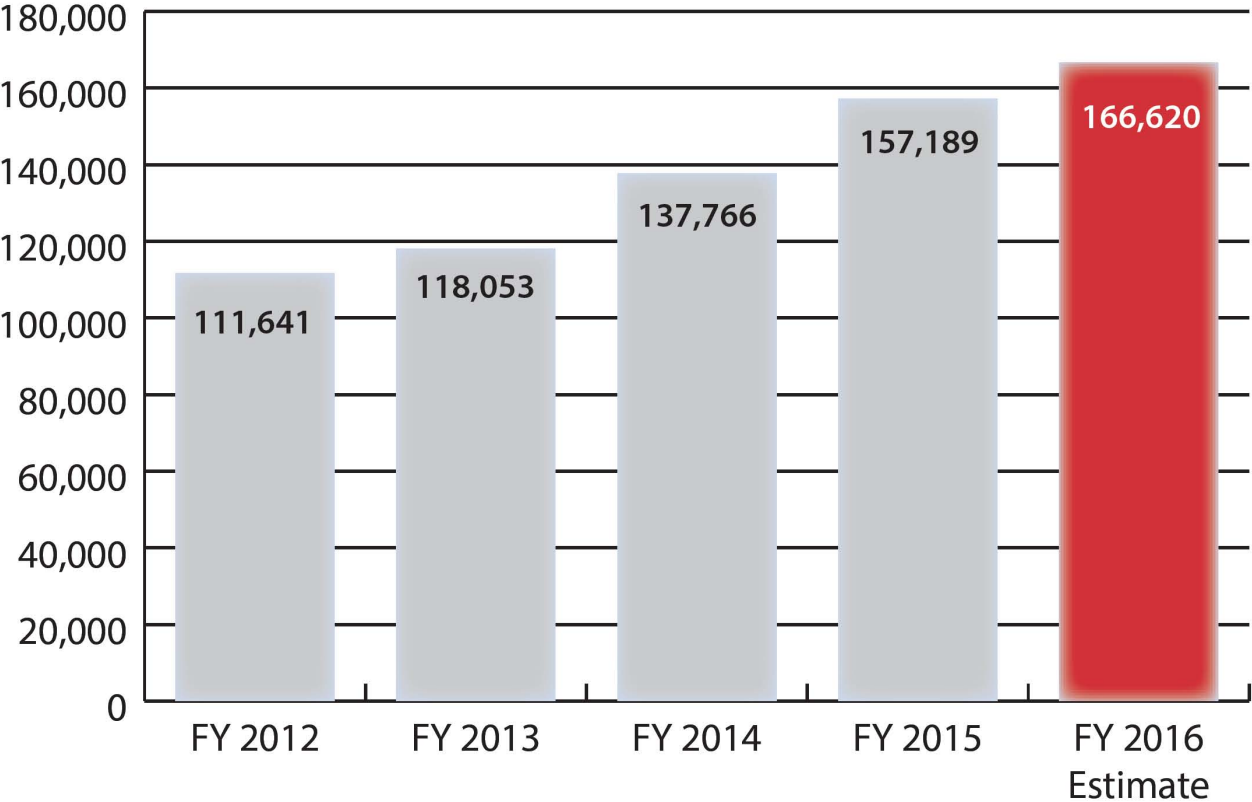
<u>FY 2015 decisions (55,713) (divided by)</u> 251 Work Days	= 222.0 Decisions per Work Day
Cases Pending at end of FY 2015 (81,022) <u>+ New Cases expected in FY 2016 (88,183)</u>	= 169,205 Total Workload in FY 2016
<u>Total Workload (169,205) (divided by)</u> Decisions per Work Day (222.0)	= 762 Work Days
<u>Work Days (762) (divided by)</u> 251 Work Days	= 3.0 Years
Work Years (3.0) x 12 (months)	= 36 Months

ADDITIONAL INFORMATION

Potential Board Workload at VBA

Number of Notices of Disagreement Received in the Field				
Month	FY 2012	FY 2013	FY 2014	FY 2015
October	9,678	10,909	12,763	13,023
November	8,563	9,006	10,782	10,182
December	8,450	8,053	10,058	10,763
January	9,490	9,468	11,295	10,939
February	9,094	8,883	10,574	11,122
March	10,208	9,743	12,336	13,709
April	9,847	10,056	12,346	14,064
May	10,101	10,130	12,783	13,872
June	9,303	10,498	13,303	15,318
July	9,131	11,093	12,375	15,328
August	10,065	11,232	10,828	15,032
September	7,711	8,982	8,323	13,837
FY Total	111,641	118,053	137,766	157,189

Notices of Disagreement Received FY 2012 - FY 2015



**Board of Veterans' Appeals
Board Dispositions by VA Program FY 2015**

APPEAL PROGRAM	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Burial Benefits	8	8.08%	23	23.23%	68	68.69%	0	0.00%	99	0.18%
Compensation	16,633	31.80%	24,619	47.07%	9,299	17.78%	1,753	3.35%	52,304	93.88%
Education	101	16.92%	155	25.96%	324	54.27%	17	2.85%	597	1.07%
Insurance	1	4.76%	6	28.57%	14	66.67%	0	0.00%	21	0.04%
Loan Guaranty	7	15.22%	18	39.13%	19	41.30%	2	4.35%	46	0.08%
Medical	179	23.46%	284	37.22%	259	33.94%	41	5.37%	763	1.37%
Pension	119	13.92%	295	34.50%	399	46.67%	42	4.91%	855	1.53%
VR&E	4	5.97%	37	55.22%	19	28.36%	7	10.45%	67	0.12%
Other Programs	9	16.67%	19	35.19%	20	37.04%	6	11.11%	54	0.10%
BVA Original Jurisdiction	10	8.85%	1	0.88%	69	61.06%	33	29.20%	113	0.20%
NCA Burial Benefits	3	6.98%	8	18.60%	31	72.09%	1	2.33%	43	0.08%
Fiduciary	0	0.00%	0	0.00%	0	0.00%	1	0.00%	1	0.00%
Multiple Program Areas	205	27.33%	416	55.47%	107	14.27%	22	2.93%	750	1.35%
GRAND TOTAL	17,279	31.01%	25,881	46.5%	10,628	19.08%	1,925	3.46%	55,713	100%

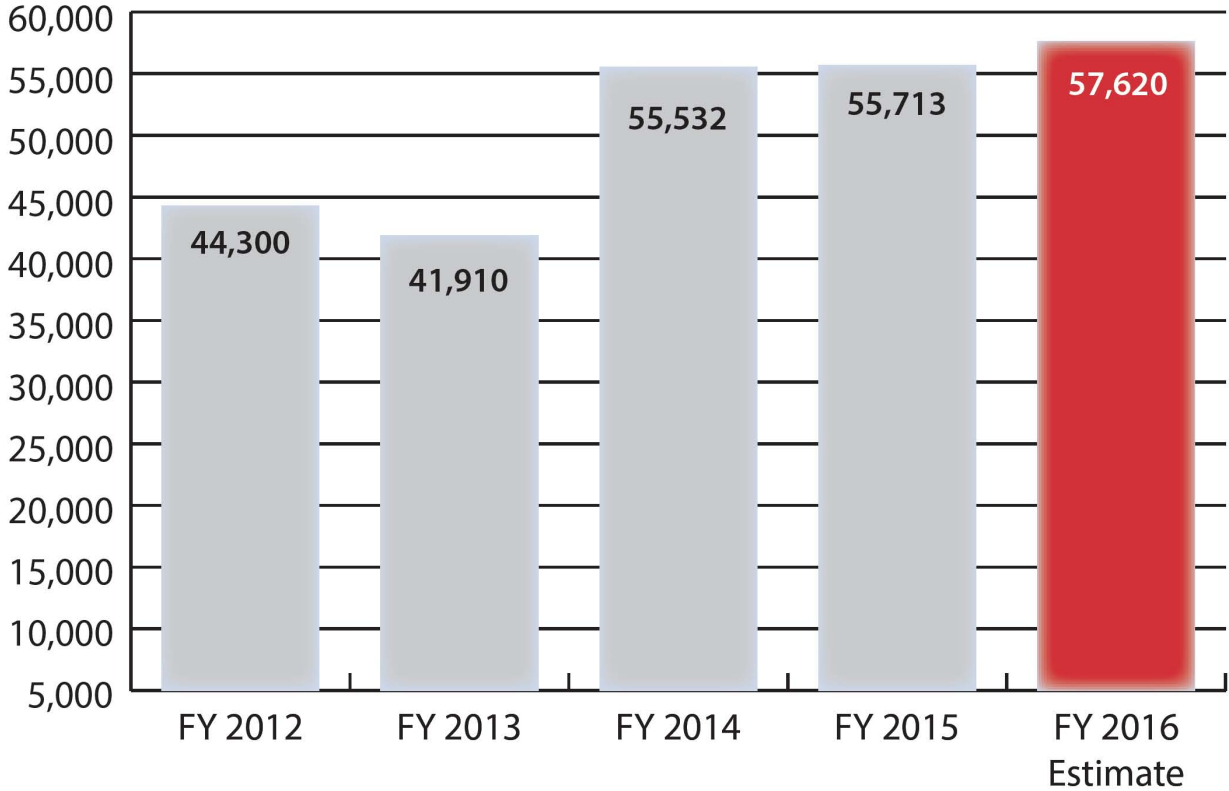
**Board of Veterans' Appeals
Board Dispositions by Representation FY 2015**

REPRESENTATION	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
American Legion	2,537	30.3%	3,988	47.6%	1,527	18.2%	331	3.9%	8,383	15.0%
AMVETS	63	39.6%	67	42.1%	21	13.2%	8	5.0%	159	0.3%
Disabled American Veterans	4,782	30.6%	7,526	48.1%	2,759	17.6%	567	3.6%	15,634	28.1%
Military Order of the Purple Heart	149	33.0%	219	48.6%	74	16.4%	9	2.0%	451	0.8%
Paralyzed Veterans of America	91	28.5%	150	47.0%	58	18.2%	20	6.3%	319	0.6%
Veterans of Foreign Wars	1,842	32.5%	2,479	43.7%	1,173	20.7%	173	3.1%	5,667	10.2%
Vietnam Veterans of America	254	29.0%	446	50.9%	141	16.1%	35	4.0%	876	1.6%
State Service Organizations	2,739	29.7%	4,112	44.6%	2,074	22.5%	286	3.1%	9,211	16.5%
Attorney	2,902	39.1%	3,500	47.2%	752	10.1%	267	3.6%	7,421	13.3%
Agent	317	35.5%	441	49.4%	112	12.6%	22	2.5%	892	1.6%
Other	260	27.2%	461	48.3%	205	21.5%	29	3.0%	955	1.7%
Wounded Warrior Project	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
No Representation	1,343	23.4%	2,492	43.4%	1,732	30.1%	178	3.1%	5,745	10.3%
GRAND TOTAL	17,279	31.0%	25,881	46.5%	10,628	19.1%	1,925	3.5%	55,713	100.0%

Board Decisions					
Fiscal Year	Decisions	Allowed	Remanded	Denied	Other
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%
2015	55,713	31.0%	46.4%	19.1%	3.5%

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 2012 - FY 2015



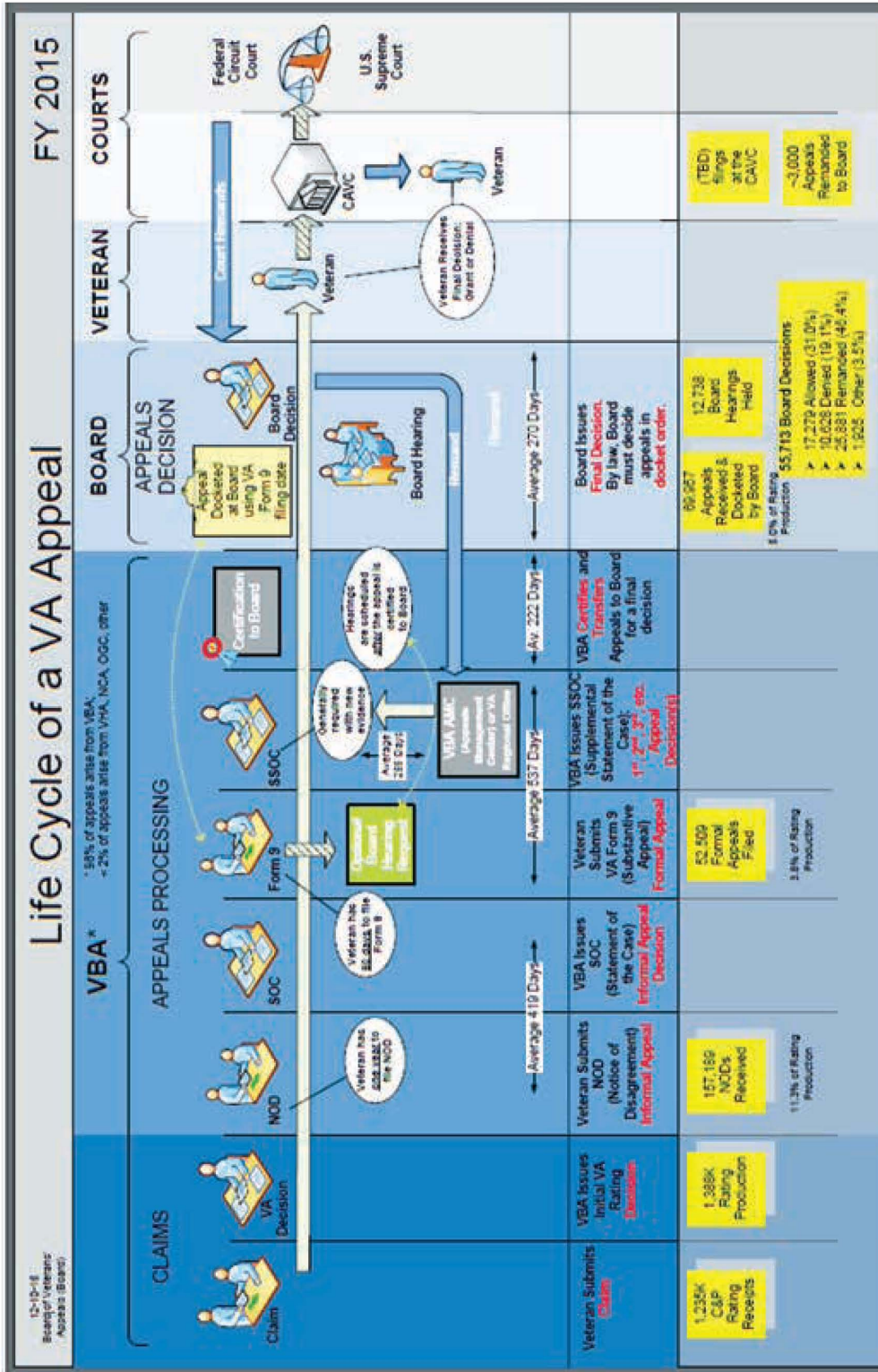
Board Operating Statistics

	FY 2012	FY 2013	FY 2014	FY 2015
Decisions	44,300	41,910	55,532	55,713
Appealed but not yet Certified or Docketed	37,326	41,612	47,065	52,509
Received at Board/Certified to the Board*	49,611	52,860	47,048	69,957
Cases Pending**	45,959	60,365	66,778	81,022
Hearings				
VACO	494	436	529	563
Video	4,868	5,778	5,881	7,609
Field	6,972	5,217	4,469	4,566
TOTAL	12,334	11,431	10,879	12,738
Decisions per FTE	87.0	78.8	88.1	86.3
Board FTE	510	532	631	645
Board Cycle Time***	117	135	202	295
Cost per Case	\$1,671	\$1,848	\$1,607	\$1,851

*Case receipts include original appeals, remands, CAVC, and non-VBA receipts. Beginning in FY 2015, the Board reported case receipts beginning with certification (Form 8) in the field. In prior years, case receipts only included physical receipt of cases at the Board.

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

***Beginning in FY 2015, the Board reported Board Cycle Time beginning with certification (Form 8) in the field. In prior years, Cycle Time only included time beginning with physical case receipt.



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U.S. Department of Veterans Affairs
Board of Veterans' Appeals
Report of the Chairman
Fiscal Year 2015