

**VA**



U.S. Department  
of Veterans Affairs

**Board of Veterans' Appeals**  
**Annual Report**



**Fiscal Year 2013**





# **Department of Veterans Affairs**

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# Table of Contents

	Page
INTRODUCTION .....	1
<b>PART I</b>	
<b>ACTIVITIES OF THE BOARD OF VETERANS' APPEALS FY 2013 .....</b>	<b>3</b>
<i>Successes .....</i>	<i>4</i>
<i>Service to Veterans .....</i>	<i>5</i>
<i>Hearings .....</i>	<i>5</i>
<i>Technology .....</i>	<i>5</i>
<i>Hiring .....</i>	<i>6</i>
<i>Training .....</i>	<i>6</i>
<i>Quality .....</i>	<i>7</i>
<i>Efficiencies .....</i>	<i>7</i>
<i>Legislative Proposals .....</i>	<i>8</i>
<i>Coordination with Administrations and Other Staff Offices .....</i>	<i>8</i>
<i>Veterans Service Organization Forums and Training .....</i>	<i>9</i>
<i>Volunteer Activities .....</i>	<i>10</i>
<i>Significant Judicial Precedent and Its Effect on the Board .....</i>	<i>10</i>
<i>The Board's Goals for Fiscal Years 2014 and 2015 .....</i>	<i>12</i>
<b>1. Increase Decision Output and Improve Accuracy .....</b>	<b>13</b>
<b>2. Advocate for Legislative Initiatives .....</b>	<b>14</b>
<b>3. Increase Use of Video Teleconference Hearings .....</b>	<b>14</b>
<b>4. Efficiently Adjudicate Paperless Appeals .....</b>	<b>14</b>
<i>Workforce Planning .....</i>	<i>15</i>
<b>BOARD MEMBERS .....</b>	<b>16</b>
<b>PART II</b>	
<b>STATISTICAL DATA Fiscal Year 2013 Information .....</b>	<b>17</b>
<b>Projections for Fiscal Years 2014 and 2015 .....</b>	<b>22</b>
<b>ADDITIONAL INFORMATION .....</b>	<b>23</b>



# INTRODUCTION

The Board of Veterans' Appeals' (Board) mission is to conduct hearings and adjudicate appeals properly before the Board in a timely manner. 38 U.S.C. § 7101(a). The Board's jurisdiction extends to all questions in a matter 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 law requires that the Chairman 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 2013 and projected activities for FYs 2014 and 2015; Part II provides statistical information related to Board activities during FY 2013 and projected activities for FYs 2014 and 2015.

The Department of Veterans Affairs (VA) appeals process is a multi-step adjudication process, which is complex and 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 (approximately 96 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. In FY 2013, approximately 10 percent of initial claims decisions were appealed, and 4.5 percent of these appeals continued through all the initial appeals processes and were certified and transferred to the Board for decision.



Department of Veterans Affairs  
Fiscal Year 2013  
Veterans Law Judges



# PART I

## ACTIVITIES OF THE BOARD OF VETERANS' APPEALS FY 2013

The Board was established in 1933 and operates by authority of, and functions pursuant to, Chapter 71 of Title 38, United States Code. 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 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 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.

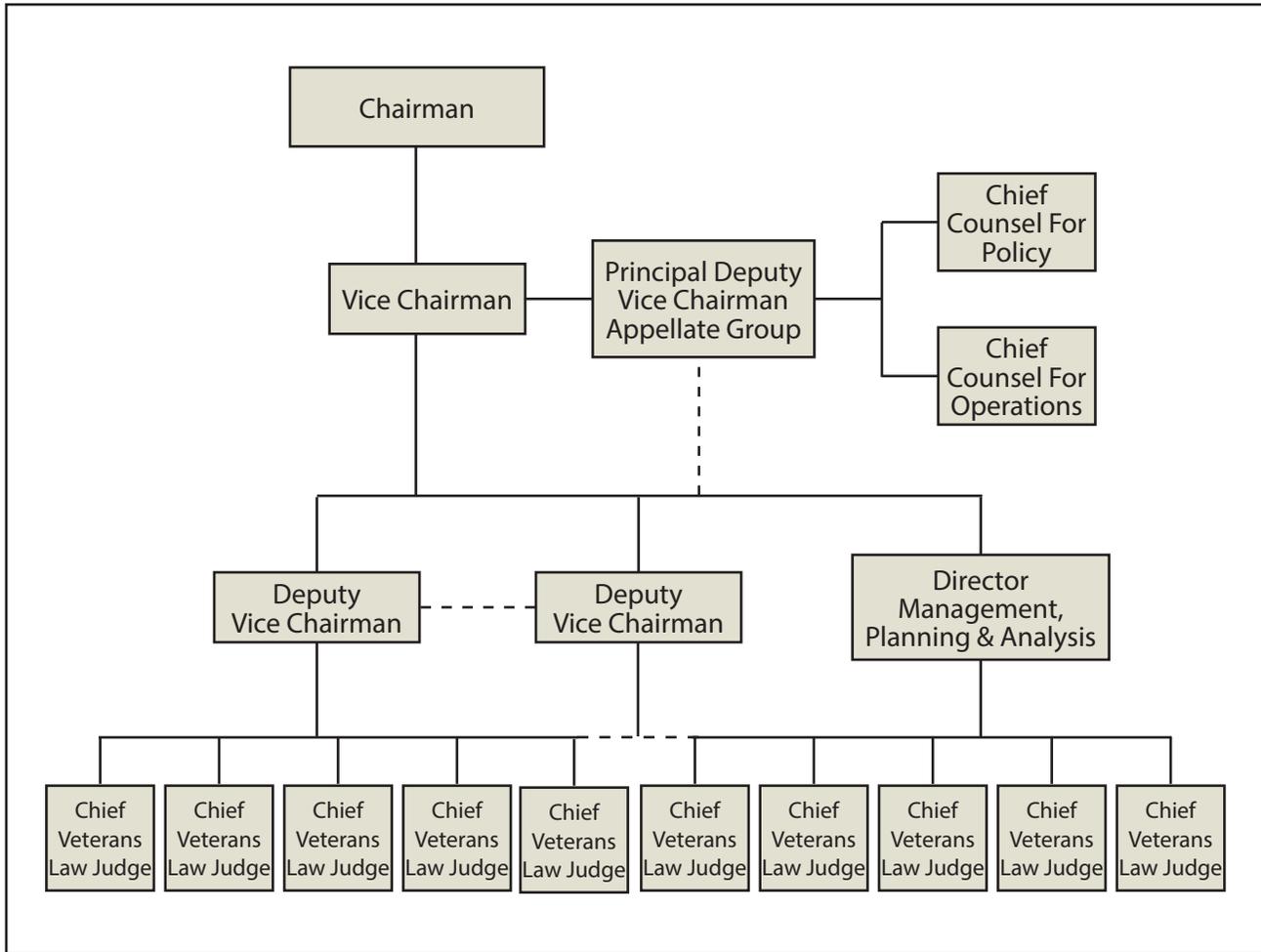
The Board’s Appellate Group consists of a Principal Deputy Vice Chairman (SES/VLJ), a Chief Counsel for Policy and Procedure (Senior Level (SL)), and a Chief Counsel for Operations (SL). The Appellate Group provides legal advice and policy guidance to the Board and other VA business lines, and includes 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 400 attorneys who prepare tentative written decisions for review and signature by a VLJ. Veterans Law Judges are appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.

In FY 2013, in order to maximize integration and efficiency, the Board implemented enhancements to its management alignment in the OVLJ. From 1995 to November 2012, the Board consisted of four Decision Teams, each with a DVC (for a total of four), two Chief VLJs (for a total of eight), and numerous VLJs and staff attorneys. Over time, this structure had become stove-piped in nature, leading to variation in management styles among the four Decision Teams. The realignment, which was implemented in December 2012, required relatively minor, but strategic, enhancements to this structure. Specifically, the OVLJ is now headed by 2 DVCs, rather than 4, and the Chief VLJ positions were increased from 8 to 10, for a tighter span of control. The DVC positions were reclassified and competed as SES/VLJ positions for

improved accountability in leadership and stronger alignment with the Department’s executive structure. This new management alignment provides increased efficiencies and integration within the Board and the Department, which better positions the Board to meet current and future challenges.



**Successes**

FY 2013 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 2013, the Board proudly served almost 42,000 Veterans and beneficiaries by issuing 41,910 decisions. Additionally, the Board's VLJs and Acting VLJs personally interacted with over 11,000 Veterans and Appellants by holding 11,431 hearings, either held face-to-face at a VA facility, in-person at the Board's offices, 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 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 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 only 135 days in FY 2013. The Board's total time for FY 2013 was 235 days, which includes the time the case is with a VSO representative for review and preparation of written argument.

The Board received 52,860 appeals in FY 2013. As VBA continues to become more efficient at 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 trends in case receipts developed jointly by the Board and VA's Office of Management, the Board anticipates receiving 64,941 appeals in FY 2014, which includes original appeals from VBA, returned remands from VBA's Appeals Management Center (AMC) and the United States Court of Appeals for Veterans Claims (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 nearly 42,000 decisions in FY 2013, the Board's administrative support staff reviewed and processed 67,359 pieces of mail, which represents an increase of more than 13,000 pieces of mail above the FY 2012 level. Additionally, the administrative staff, including the Board's call center in Wilkes-Barre, Pennsylvania, answered 109,008 inquiries from Veterans or their representatives by phone, email, or written correspondence, up from 103,046 in FY 2012.

## *Hearings*

The Board is proud to have met and exceeded its FY 2013 goal of conducting at least 46 percent of hearings by VTC, holding a record 51 percent of hearings by VTC. By doing so, the Board reduced its travel costs by 26 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 frequently 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 VAMCs. Moreover, the Board continued to survey hearing participants, with an impressive 96 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. Historically, hearing transcripts were printed on paper and shipped to the Board by transcription contractors, and thereafter associated with paper files by Board support staff.

Beginning in FY 2013, the Board leveraged technology to upload these transcripts electronically, thus saving administrative processing time, as well as supply and shipping costs. In line with this initiative, the Board also initiated a program to digitize Informal Hearing Presentations (IHP), which are written brief materials submitted by VSOs on behalf of Appellants in support of their appeals. These changes helped prepare the Board for working in a virtual environment, as VA proceeds with its Department-wide transformation to a fully electronic claims/appeals adjudication system under the Veterans Benefits Management System (VBMS).

Further, the Board worked closely with other VA partners to transform VA into a 21<sup>st</sup> century organization. Specifically, the Board contributed to efforts to develop appeals functionality in VBMS by providing valuable input to software developers regarding the laws governing the system, workflow processes, and the Board's requirements for adjudicating appeals. The Board also maintained 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. This system has promoted transparency and improved customer service.

## *Hiring*

In March 2013, the Board received additional funding of \$8 million pursuant to the Consolidated and Further Continuing Appropriations Act of 2013. To execute these funds, the Board developed an aggressive plan to hire new full-time equivalents (FTE) by the end of FY 2013. With the critical support provided by VHA's Human Resources Tiger Team, the Board was able to successfully execute this plan by hiring and onboarding 125 new FTE, including 114 new attorneys during the third and fourth quarters of FY 2013.

## *Training*

Commensurate with the intensive hiring surge conducted in the third and fourth quarters of FY 2013, the Board's Training Office developed an entirely new training program for the 114 newly hired attorneys. The new training program, which included 3 months of intensive classroom and practical training, as well as 3 months of decision-writing under the guidance of more senior attorney coaches, 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 a short period of time.

In FY 2013, 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 Training Office created targeted training for all employees based, in part, on trends gleaned from the Board's quality review process, as well as based on outcomes in cases heard before the CAVC and the United States Court of Appeals for the Federal Circuit (Federal Circuit). Specifically, the Training Office coordinated comprehensive training for Board attorneys and VLJs, including courses on topics such as: eye disabilities; ethics, including the rules of professional conduct for attorneys and the canons of judicial conduct; posttraumatic stress disorder and military sexual trauma; dental disabilities; Gulf War and undiagnosed illness claims; earlier effective dates; radiation claims; adjudicating increased rating claims of the knee; lay evidence; and several Franklin Covey courses, including Leading at the Speed of Trust, Time Management, and Seven Habits of Highly Effective Managers.

In addition, the Board continued to offer medical training for its staff to address the increasing complexity of disability compensation appeals, and devoted extensive efforts in assisting the Office of Disability and Medical Assessment (DMA) in working to improve the compensation and pension examination process in order to improve the quality of examination reports. The Board also conducted mandatory training for all staff regarding VBMS, VA's new electronic claims processing system.

## Quality

In FY 2013, the Board continued to challenge its employees to maintain high levels of quality, and through these efforts, achieved an accuracy rate of 94 percent in the decisions issued, up 3 percent from FY 2012. 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, during the fourth quarter of FY 2013, the Board began to implement various business process improvements to meet the anticipated rise in incoming workload. Specifically, Board leadership actively encouraged 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. The Board anticipates that tighter, more streamlined work products will allow the Board to assist a larger number of Veterans, thereby reducing Veteran wait times and the Board's pending inventory of appeals. With additional training targeted towards sharper, more focused decisions, the Board anticipates a lift in productivity in FY 2014 and beyond.

Additionally, in July 2013, the Board launched a 1-month pilot known as the "Rocket Docket" in an effort to shorten the wait time for Veterans whose appeals must be remanded (*i.e.*, sent back) to the AOJ or Regional Office for further development, in many cases, due to additional evidence being provided by the Veteran. The statutory authority for such screening (38 U.S.C. § 7107(f)) creates an exception to the Board's legal requirement to decide cases in docket order (*i.e.*, oldest appeals first). Approximately 1,300 appeals were screened under the pilot, and approximately 400 appeals (31 percent) were identified as potential remands and sent to a Veterans Law Judge for review. Historically, approximately 75 percent of cases remanded by the Board are returned to the Board following the remand. By completing the needed development early, these appeals should be ready for final disposition when they return and reach their place on the Board's docket for consideration. Based on the results of the pilot, the Board will continue triaging cases in a similar manner so that needed development can be undertaken as soon as possible and wait times for Veterans for a final agency decision will be reduced.

Finally, the Board held its first Innovation Competition, which was founded, led, and managed by non-managerial employees. During this grass-roots effort, employees used a web-based platform to submit ideas focused on improving mission-critical functions and enhancing the service we provide to the Nation's Veterans. The web-based platform, run by the VA Learning University, allowed employees to submit, critically comment on, and vote for their favorite ideas. At the conclusion of the competition, several ideas that will further improve efficiencies in case adjudication and processing were selected by leadership for immediate or future implementation.

## ***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 that will increase the efficiency of the Board's work by encouraging the use of video hearings. Other legislative concepts have touched on other parts of the appeals 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 Veterans Service Organizations, 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), in order to better serve Veterans and their families. In particular, the Board continued its efforts to conduct as many hearings as possible within FTE levels in order to reduce the number of cases on appeal awaiting Board hearings. To this end, in FY 2013, the Board worked closely with VBA leadership to track the Travel Board hearing no-show 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 2013, the Board continued 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 has not yet reached the Board, but is still pending at VBA. Specifically, the Board and VBA conducted joint training in Baltimore, Maryland, which addressed complex and difficult legal areas in the adjudication process. Topics covered included recent trends in Veterans' law and top reasons for remand. Additionally, the Quality Review staffs of both the Board and VBA continued to work together to identify trends and target training to common issues. Similarly, the Board worked with VHA to train the clinicians who provide examinations in conjunction with compensation claims on the legal requirements of such exams.

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. In FY 2013, data shows that 64 percent of the Board's remand reasons were not the result of any mistake on the part of VA; rather, the remand reasons were often 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 2013. Of note, the Board continued to have active representation on VBA's Appeals Design Team (ADT), a group established to generate and implement innovative ideas to help decrease lengthy appellate processing times and increase appellate processing quality. One ADT proposal spawned a successful pilot program at the Houston RO that continued until January 2013 wherein claimants who disagreed with a benefits decision were asked to submit Notices of Disagreement (NOD) on a standardized form. Based on the demonstrated positive outcomes of this pilot program, the Board worked closely with VBA and OGC on combined regulatory revisions considering the use of a standardized form for claims submission.

The Board also had representation in the integrated Electronic Health Record (iEHR) working group. In this capacity, a Board representative provided guidance on requirements for VA claims adjudication and assisted with modeling VA processes.

The Board and OGC partnered to help develop the legal career component of the MyCareer@VA web portal, an online tool that enables VA employees map their career paths.

The Board continued to partner with DMA in an effort to improve the compensation and pension examination process in order to enhance the quality of examination reports. In this regard, the Board welcomed representatives from DMA to its facility on numerous occasions during FY 2013 to discuss matters relating to VA examinations, including helping to create web-based courses for examiners.

Further, in May 2013, the Board entered into a Memorandum of Understanding with VBA, VHA, and OIT outlining the roles and responsibilities of each of these major stakeholders with regard to deploying digital Disability Benefits Questionnaires (DBQ) to VBMS within set time limits. This governance council has since met on a regular basis to identify and resolve any potential roadblocks to the successful deployment of the digital DBQs in VBMS. In addition, the Board worked closely with VBA, DMA and VHA to improve and automate the DBQs.

The Board continued to coordinate closely with NCA on appeals processing and tracking. Specifically, Board representatives participated in a working group focused on establishing an appellate administrative office within NCA, and provided legal guidance on issues such as the legal requirements for NODs, substantive appeals, and the submission of new and material evidence for previously denied claims. The Board also provided guidance to NCA on the information that must be included in the file in order to enable appellate review.

Finally, the Board continued to engage in the Department-wide task force charged with capturing and updating the functions, tasks, and capabilities of each branch of VA, as well as the areas in which these functions, tasks, and capabilities overlap and can be leveraged. Similarly, the Board participated in a VA-initiative to ensure consistency and accuracy of Veteran data across the Department. These cumulative intra-agency efforts will lead to greater synchronization across all aspects of the enterprise.

## ***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 global 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 the in-house training that is provided to Board staff.

Additionally, beginning in May 2013, the Board partnered with the Disabled American Veterans to develop an innovative pilot program to process Informal Hearing Presentations (IHP) electronically. The pilot successfully demonstrated the Board's ability to seamlessly transfer IHPs from the VSO for upload into Veterans' eFolders, and as such, the Board has now expanded the program to allow all co-located VSOs to process IHPs electronically.

## *Volunteer Activities*

The Board proudly supports Veterans and their families. In FY 2013, the Board continued to facilitate the collection and donation of comfort items for distribution to Veterans at the Washington, DC, 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 helped to collect calendars and valentines for Veterans to distribute at the USAFRH. Numerous Board employees participated in the Honor Flight Network, greeting WWII Veterans who have been flown, free of charge, to Washington, DC, to view the memorials; 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 fifth 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 2013, the CAVC and the Federal Circuit issued many significant decisions that impacted the way VA adjudicates appeals, including the following:

- ▶ ***Walker v. Shinseki*, 708 F.3d 1331 (Fed. Cir. 2013):** The Federal Circuit affirmed a CAVC decision that denied the Appellant’s claim for entitlement to service connection for bilateral hearing loss by interpreting 38 CFR § 3.303(b), which relates to chronicity and continuity of symptomatology. Specifically, the Federal Circuit held that 38 CFR § 3.309(a) lists all chronic diseases for the purpose of processing claims under § 3.303(b), and concluded that § 3.303(b) was not applicable to the Appellant’s bilateral hearing loss claim because § 3.309(a) does not identify hearing loss as a chronic disability. The Federal Circuit also found that, for chronic diseases listed in § 3.309(a) that qualify for consideration under § 3.303(b), “there is no ‘nexus’ requirement” unless evidence of an inter-current cause exists. This case is significant because it clarifies the role of § 3.303(b) so that this continuity of symptomatology provision applies only to the diseases specifically labeled as “chronic” under § 3.309(a).
- ▶ ***Viegas v. Shinseki*, 705 F.3d 1374 (Fed. Cir. 2013):** In this case, the Appellant filed a claim for disability compensation under 38 U.S.C. § 1151, after sustaining additional injuries to his upper and lower extremities after using a restroom located in a VA facility while seeking treatment for a separate disability. The RO denied the Appellant’s claim by concluding that he was “not in direct VA care at the time of [his] fall.” The Board denied the appeal by finding that benefits are available under section 1151 only if a Veteran’s “additional disability [is] the result of injury that was part of the natural consequence of cause and effect flowing directly from the actual provision of hospital care, medical or surgical treatment, or examination furnished by [the] VA and . . . such additional disability was directly caused by that VA activity.” The CAVC agreed, finding that although the Appellant’s injury occurred in a VA facility, it was not caused directly by “hospital care, medical or surgical treatment, or examination furnished by [the] VA.” The CAVC then noted that while the Appellant might potentially be able to seek compensation for his injuries under the Federal Torts Claim Act, 28 U.S.C. § 1346(b), the additional disabilities incurred as a result of his fall were “simply not covered by section 1151.”

The Federal Circuit vacated and remanded the CAVC decision, finding that the CAVC misinterpreted the causation requirement set forth in section 1151(a)(1). Specifically,

the Federal Circuit noted that section 1151 delineates three prerequisites for obtaining disability compensation. Of these, the Appellant's injury clearly met the second causation element since it was proximately caused by VA's failure to properly install and maintain the equipment in the VA medical facility's bathroom. The sole remaining issue then was whether the Appellant's injury was "caused" by the medical treatment or hospital care he received from VA. After reviewing the language of the statute and its legislative history, the Federal Circuit found that there was nothing in the plain language of section 1151 that required a veteran's injury to be "directly" caused by the "actual provision" of medical care by VA personnel. Instead, the statute required only a "causal connection," which includes injuries that occur in a VA facility as a result of VA's negligence. The Federal Circuit further noted that the statute does not extend to "remote consequences" of hospital care or medical treatment provided by VA. This case is significant because it clarified the causation requirement under 38 U.S.C. § 1151.

- ▶ ***Jones v. Shinseki*, 26 Vet. App. 56 (2012):** The Appellant in this case appealed a decision that denied an increased rating for irritable bowel syndrome. The Veteran's service-connected disability was evaluated by analogy under 38 CFR § 4.114, Diagnostic Code 7319, which addresses irritable colon syndrome. The Board, as part of its basis in denying an increased rating, stated that the medical records showed that anti-acid medication provided some relief of the Veteran's gastrointestinal symptoms. The rating criteria under Diagnostic Code 7319 do not contemplate the effects of medication in evaluating the disability.

The CAVC concluded that the Board committed legal error by considering the effects of medication on the Appellant's irritable bowel syndrome "when those effects were not explicitly contemplated by the rating criteria." It cited prior case law holding that the Board errs as a matter of law when it considers factors that are outside the rating criteria provided by regulation. The CAVC concluded that there was no intent on behalf of the Secretary to consider the effects of medication when evaluating irritable colon syndrome. The CAVC explained that the Secretary had demonstrated in other Diagnostic Codes in the Rating Schedule that there are disabilities where VA considers the effects of medication when evaluating the disability. Thus, the failure to include the effects of medication as a criterion under Diagnostic Code 7319, while including such effects as criteria under other Diagnostic Codes, must therefore be read as a deliberate choice. This case is significant because the CAVC stated that to the extent that prior case law had not addressed this issue, it was now explicitly holding that the Board may not deny entitlement to a higher disability rating on the basis of relief provided by medication when those effects are not specifically contemplated by the rating criteria.

- ▶ ***Johnson v. Shinseki*, 26 Vet. App. 237 (2013):** In this case, the Appellant argued that the Board decision did not provide an adequate statement of reasons or bases for its conclusions that he was not entitled to a referral for an extraschedular rating for his heart disease and right knee disability on either an individual or collective basis. In affirming the Board's decision, the CAVC found that 38 CFR § 3.321 is ambiguous as to whether an extraschedular evaluation is to be awarded solely on a disability-by-disability basis or on the combined effect of a Veteran's service-connected disabilities. It then explained that where the language of a regulation is ambiguous, the CAVC must defer to the Agency's interpretation of its regulation as long as the interpretation is not inconsistent with the regulatory language or otherwise plainly erroneous. The CAVC determined that the Secretary's "disability-by-disability interpretation of § 3.321(b)(1)" was consistent with the statutory and regulatory

scheme, whereby disability ratings are assigned for each disability separately based on the level of severity of a particular disability. The CAVC also concluded that the Secretary's interpretation was consistent with the regulations governing effective dates, which sets effective dates in accordance with events related to a single disability claim, such as the date of receipt of the claim. Thus, the CAVC held that the Secretary's interpretation that extraschedular evaluations are awarded based on a single disability was entitled to deference since it was not unreasonable, plainly erroneous, or inconsistent with the regulation or the statutory and regulatory scheme when viewed as a whole. This case is significant because the CAVC determined that the Board is not required to consider whether a Veteran is entitled to extraschedular consideration for multiple disabilities on a collective basis.

- ▶ ***Romanowsky v. Shinseki*, 26 Vet. App. 289 (2013):** In this case, the Appellant appealed a decision of the Board denying a claim of entitlement to service connection for a psychiatric disorder, claimed as adjustment disorder. As noted by the CAVC, a diagnosis of adjustment disorder had been made in May 2008, several months before the Appellant filed his claim in November 2008. Thereafter, in December 2008, the Appellant underwent a VA examination, which did not result in a diagnosis of adjustment disorder. The Board denied the claim, relying on the December 2008 examination alone to conclude that the Appellant did not have a current diagnosis of a mental disorder. In reaching this determination, the Board recognized the earlier diagnosis, but citing to *McClain v. Nicholson*, 21 Vet. App. 319 (2007), found that the earlier diagnosis fell outside the appeal period. The CAVC vacated and remanded the Board decision because the Board did not consider whether the earlier diagnosis was extant at the time the Appellant filed his claim.

The CAVC explained that its earlier holding in *McClain* does not prohibit evidence of a diagnosis predating the claim from establishing a current disability as a matter of law. To the contrary, the CAVC held that when the record contains a recent diagnosis made prior to when a Veteran files a claim for benefits based on that disability, the report of diagnosis is relevant evidence that the Board must address in determining whether a current disability existed at the time the claim was filed or during the pendency of the appeal. (In a footnote, the CAVC noted that the question of whether a diagnosis is sufficiently proximate to the filing of a claim so as to constitute evidence of a "current diagnosis" is a fact finding that must be made by the Board.) The CAVC also found that there was a deficiency in the medical evidence in this case because the December 2008 VA examination did not address whether the Appellant's psychological disorder, diagnosed in May 2008, had resolved itself or was incorrectly diagnosed, and whether it was acute or chronic. Accordingly, the CAVC concluded that a new medical opinion was necessary to resolve the discrepancy between the existing medical examinations. This case is significant because it requires the Board to address evidence of a potentially current diagnosis regardless of whether that diagnosis was made prior to when a claim was filed.

## ***The Board's Goals for Fiscal Years 2014 and 2015***

The Board is prepared to meet the challenge of transforming into a 21<sup>st</sup> century organization that will increase decision output, 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 Decision Output and Improve Accuracy

In the coming year, the Board will continue to focus on maximizing its decision output using a multi-pronged strategic approach. Specifically, the Board will leverage existing resources by concentrating on the following:

- ▶ **Streamlined, focused decision-writing:** In FY 2014 the Board will continue to focus on streamlined decision-writing, particularly in cases where the benefits sought can be granted or a remand for further development is required. It is anticipated that this initiative will enable VLJs and attorneys to work cases more efficiently, thereby increasing the Board's overall decision output.
- ▶ **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 percent in FY 2013.
- ▶ **Targeted intra-Departmental training:** As in past years, in FY 2014, the Board will continue coordinating with VBA on joint training efforts. Specifically, the Board plans to allow attorneys to provide trainings to RO staff on topics of interest identified by VBA, using both in-person training during Travel Board trips and virtual training leveraging VA's video teleconferencing 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 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 Quality Review Office will continue to engage in extensive liaison efforts with VBA's AMC in FY 2014. Through this line of communication, the Board and the AMC will continue to address and resolve issues pertaining to the proper processing of remands, to include 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 original claims folders. Each flexiplace participant agrees to abide by the rules of the program, which include strict safeguards to protect sensitive data. In FY 2013, 165 of the Board's employees telecommuted in some capacity. Looking ahead to FY 2014, 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. Advocate for Legislative Initiatives**

As discussed above, in FY 2013, 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 2014 and FY 2015, 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 level and at the Board level.

## **3. Increase Use of Video Teleconference Hearings**

Appellants may elect an optional hearing before a VLJ before their appeal proceeds to decision. Approximately 25 percent of appeals before the Board involve a personal hearing with a Board VLJ. To date, the Board offers three options for hearings: in-person hearings before a VLJ seated at a VA facility (known as "Travel Board" hearings); in-person hearings before a VLJ seated at the Board's headquarters in Washington, DC (known as "Central Office" hearings); or face-to-face hearings before a VLJ seated in Washington, DC, and a Veteran/Appellant seated at a VA facility via VTC.

As noted above, in FY 2013, the Board conducted a record 51 percent of its hearings via VTC. In FY 2014, 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 video teleconference technology to encourage more Veterans to elect the video teleconference hearing option. Video teleconference 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 video teleconference hearing.

## **4. Efficiently Adjudicate Paperless Appeals**

In FY 2013, the Board continued to adjudicate appeals and hold hearings in cases with paperless records. The Board also received its first appeals in VBMS, which will replace all paper files as well as one of VA's legacy electronic systems, Virtual VA. In FY 2013, the Board received approximately 1,000 VBMS appeals, which primarily originated as post-remands from VBA's AMC that were scanned into VBMS. The Board's VBMS Team participated in robust off-site sessions with the developers and continued to work with its partners at VBA and OIT to articulate its business needs and develop, refine, and plan for appeals functionality in VBMS.

While the Board does not currently have the capability to administratively process and track appeals in VBMS, it is able to use this system as a virtual repository of records to view and sort the electronic folder (efolder). Some initial appeals functionality was built into VBMS in the first quarter of FY 2014, and it is expected that additional appeals functionality requirements, to include administrative processing and tracking features, will be programmed in future releases. In the meantime, the Board will continue to use another VA legacy system (VACOLS) to assist with the efficient processing and tracking of appeals throughout the Department. During the upcoming fiscal year, the Board will continue to provide VBMS training for employees and the co-located Veterans Service Organizations so that VBMS appeals may be processed efficiently. The Board will continue to review appeals in a hybrid environment of paper files, Virtual VA, and VBMS, until all appeals records are virtual in one system.

## ***Workforce Planning***

As noted above, the Board successfully hired and onboarded 125 new FTE, including 114 new attorneys, in the last 4 months of FY 2013. 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, in FY 2013 the Board undertook an aggressive campaign to increase participation in the 2013 VA All Employee Survey – a survey that collects information on employee perceptions of the work place and satisfaction at work. This campaign was a success, resulting in an unprecedented response rate of 92.3 percent, one of the highest in the Department. All levels of Board management will work together to analyze the Board’s 2013 VA All Employee Survey results and implement improvements as needed in FY 2014 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 our organization. Notably, during FY 2013, the Board engaged VA’s Chief Diversity Educator to conduct “Cultural Competency” training sessions for all employees, which enabled the staff to learn about the importance of recognizing and respecting cultural differences and to raise diversity awareness. 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 2013, 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 Chairman’s Office, Management, Planning and Analysis, 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.

# BOARD MEMBERS<sup>1</sup>

## Chairman

Executive in Charge: Laura H. Eskenazi

## Vice Chairman

Laura H. Eskenazi

## Principal Deputy Vice Chairman

Vacant

## Deputy Vice Chairmen

Joaquin Aguayo-Pereles

David C. Spickler

## Chief Veterans Law Judges

Theresa M. Catino	James March
Dennis F. Chiappetta	Cheryl L. Mason
Cherry O. Crawford	Kimberly E. Osborne
Linda Anne Howell	Robert Sullivan
John Jones	Claudia Trueba

## VETERANS LAW JUDGES

Karen J. Alibrando	Milo H. Hawley	Kalpana M. Parakkal
Keith W. Allen	Michael A. Herman	Jeffrey D. Parker
Marjorie A. Auer	Mark D. Hindin	Alan S. Peevy
Kathy A. Banfield	Anne E. Jaeger	Ursula R. Powell
Wayne M. Braeuer	Michelle Kane	Steven D. Reiss
Derek R. Brown	Susan L. Kennedy	Harvey P. Roberts
Bethany L. Buck	Michael E. Kilcoyne	Robert C. Scharnberger
Vito A. Clementi	Jonathan B. Kramer	Ronald W. Scholz
Barbara B. Copeland	Michael S. Lane	Howard N. Schwartz
John J. Crowley	Mary Ellen Larkin	George R. Senyk
Thomas J. Dannaher	Eric S. Leboff	Deborah W. Singleton
Paula M. DiLorenzo	Michael D. Lyon	Susan S. Toth
Shane A. Durkin	James A. Markey	David L. Wight
Frank J. Flowers	Michael D. Martin	Stephen L. Wilkins
Kathleen Gallagher	Joy A. McDonald	Jessica J. Wills
George E. Guido, Jr.	Jacqueline E. Monroe	
Mark F. Halsey	Michael A. Pappas	

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

# PART II

## STATISTICAL DATA

### Fiscal Year 2013 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):	<b>41,612</b>
Number of appeals physically received at the Board and docketed during FY 2013:	<b>52,860</b>

**38 U.S.C. § 7101(d)(2)(B)**

Cases pending (certified) before the Board at the start of FY 2013:	<b>45,959*</b>
Cases pending (certified) before the Board at the end of FY 2013:	<b>60,365*</b>
Cases certified and physically received at the Board at the end of FY 2013:	<b>47,159</b>

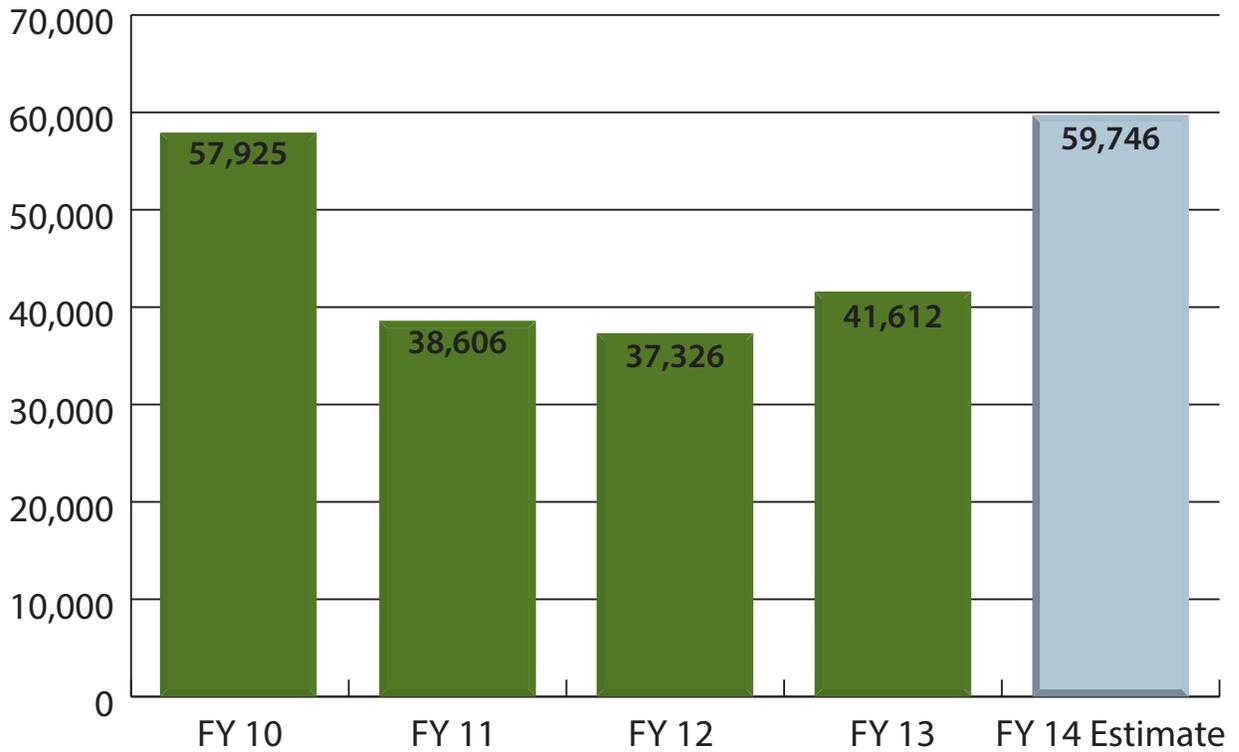
\*Includes certified appeals pending in the field awaiting hearings, as well as cases docketed and physically pending at Board.

**38 U.S.C. § 7101(d)(2)(C)**

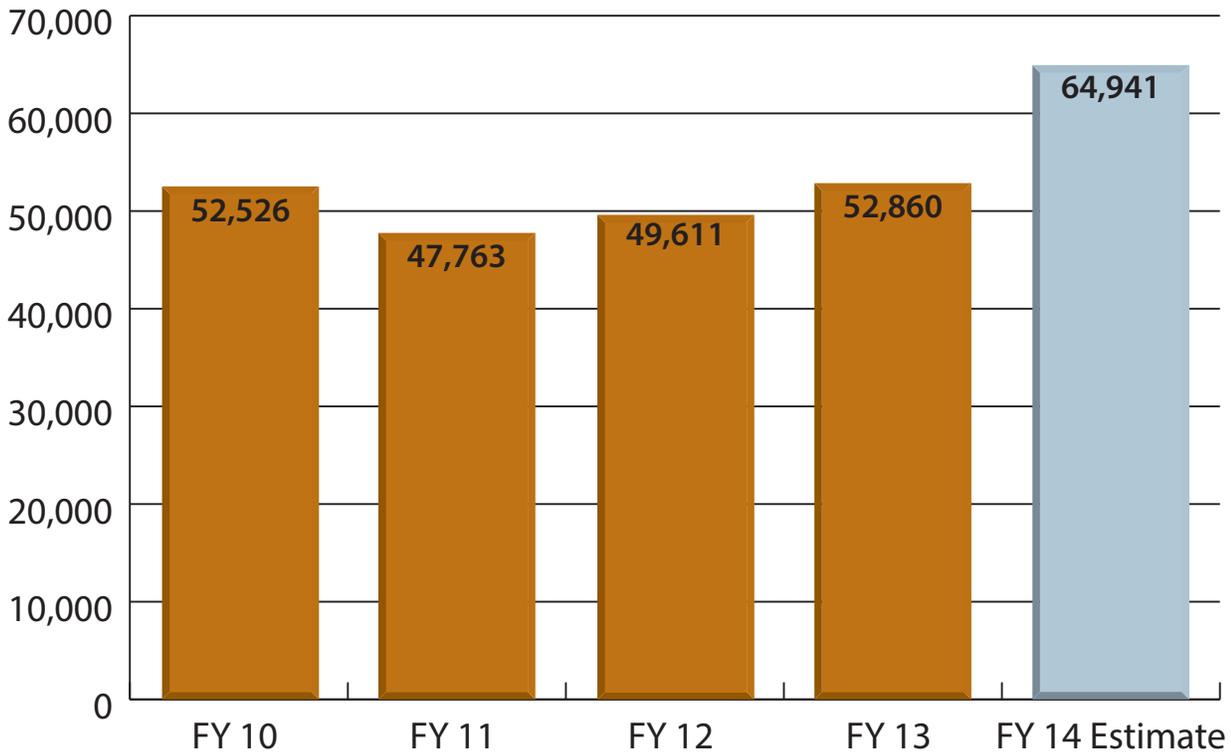
Number of Substantive Appeals filed (VA Form 9) at AOJ and cases received at Board during each of the 36 months preceding FY 2013.

<b>Substantive Appeals Filed (VA Form 9)</b>					<b>Cases Received at Board</b>			
<b>Month</b>	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>	<b>FY 13</b>	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>	<b>FY 13</b>
<b>October</b>	5,295	3,693	2,804	3,900	5,197	3,907	2,917	4,864
<b>November</b>	4,853	3,392	3,033	3,057	3,611	3,949	2,891	4,922
<b>December</b>	4,788	3,103	2,936	3,053	3,392	3,171	3,280	3,454
<b>January</b>	5,246	2,957	2,617	3,730	4,926	3,359	5,648	4,386
<b>February</b>	3,535	2,909	2,460	3,340	3,190	3,514	3,378	4,467
<b>March</b>	5,697	3,670	3,371	3,254	5,069	4,538	4,198	4,975
<b>April</b>	4,936	3,280	3,138	3,588	4,194	4,269	4,774	5,256
<b>May</b>	4,462	3,464	3,545	4,030	5,289	4,555	5,000	4,667
<b>June</b>	5,201	3,610	3,311	3,072	4,974	3,934	4,228	4,309
<b>July</b>	4,526	2,833	3,361	3,611	4,462	4,010	4,478	4,183
<b>August</b>	4,756	2,884	3,483	3,478	3,823	4,131	4,466	3,907
<b>September</b>	4,630	2,811	3,267	3,499	4,399	4,426	4,353	3,470
<b>FY Total</b>	<b>57,925</b>	<b>38,606</b>	<b>37,326</b>	<b>41,612</b>	<b>52,526</b>	<b>47,763</b>	<b>49,611</b>	<b>52,860</b>

## Substantive Appeals Filed at AOJ (VA Form 9) FY 10 - FY 13



## Cases Received at Board FY 10 - FY 13



### 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 960 days in FY 2013. This time period reflects more of the multi-step appeals process than just the time that an appeal spends at the Board. 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 only 235 days. The chart also provides the average processing time between other distinct steps within the multi-step appeals process.

## FY 13 Average Length of an Appeal

Time Interval	Responsible Party	Average Elapsed Processing Time	
Notice of Disagreement Receipt to Statement of the Case	VBA	295 days	} AOJ
Statement of the Case Issuance to Substantive Appeal (VA Form 9) Receipt	Appellant	40 days	
Substantive Appeal Receipt to Certification of Appeal to Board	VBA	725 days	
<b>Receipt of Certified Appeal to Issuance of Board Decision*</b>	<b>Board</b>	<b>235 days</b>	} <b>Board</b>
Average Remand Time Factor	VBA	348 days	} AOJ

\*This includes the Board’s cycle time of 135 days. Cycle time measures the time from when an appeal is physically 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 2013: **61 members**

The number of professional, administrative, clerical and other personnel employed by the Board at the end of FY 2013: **563 employees not including 61 members above.**

### **38 U.S.C. § 7101(d)(2)(F)**

Number of acting members of the Board during FY 2013: **61**

Number of cases in which acting members participated: **5,429**

### **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 2014 and 2015

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 2014:	VA Form 9s filed at the AOJ:	<b>59,746</b>
	Cases docketed upon receipt at Board:	<b>64,941</b>
Fiscal Year 2015:	VA Form 9s filed at the AOJ:	<b>69,335</b>
	Cases docketed upon receipt at Board:	<b>84,715</b>

## 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 Board Travel Board or VTC hearings.

The following categories are calculated as follows:

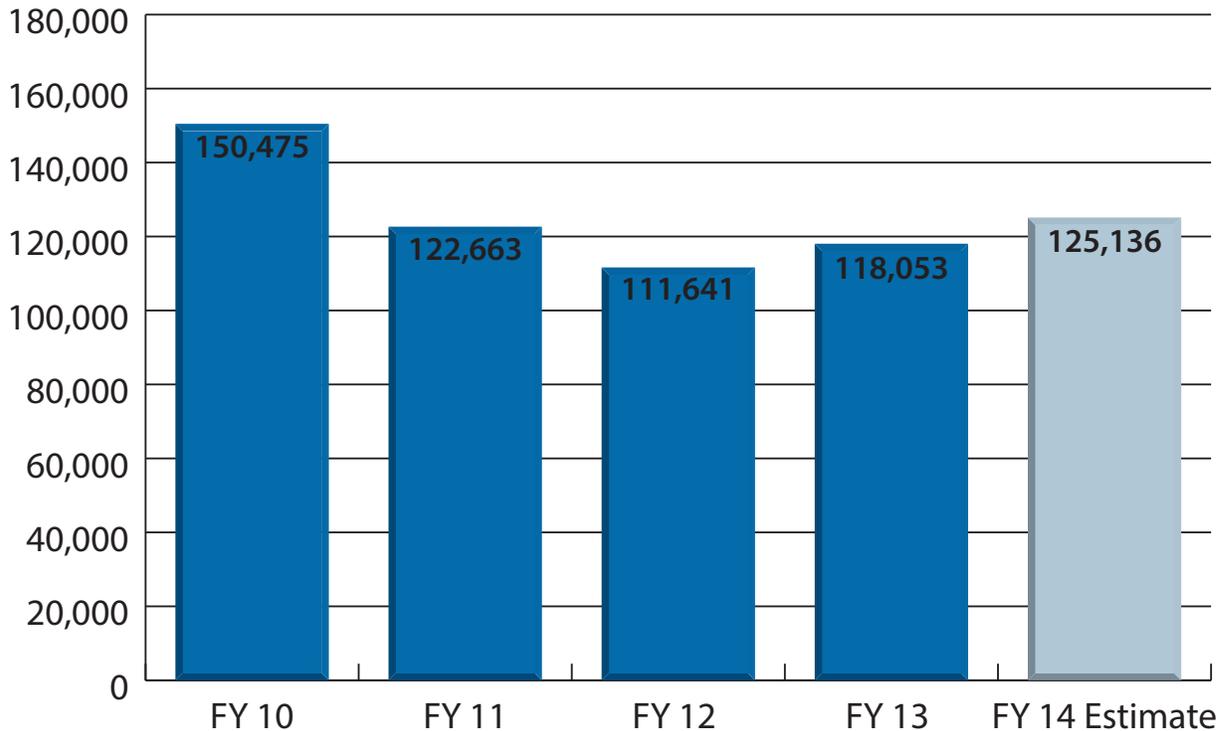
<u>FY 2013 decisions (41,910) (divided by)</u> 261 Work Days	= 160.6 Decisions per Work Day
Cases Pending at end of FY 2013 (60,365) <u>+ New Cases expected in FY 2014 (64,941)</u>	= 125,306 total workload in FY 2014
<u>Total Workload (125,306) (divided by)</u> Decisions per Work Day (160.6)	= 780 work days
<u>Work Days (780) (divided by)</u> 261 Work Days	= 2.9 Years
Work Years (2.9) x 12 (months)	= 35.8 Months

# ADDITIONAL INFORMATION

## Potential Board Workload in VBA

Number of Notices of Disagreement Received in the Field FY 10 - FY 13				
MONTH	FY 10	FY 11	FY 12	FY 13
October	12,956	12,587	9,678	10,909
November	11,079	11,248	8,563	9,006
December	11,685	9,719	8,450	8,053
January	11,710	10,130	9,490	9,468
February	12,260	9,233	9,094	8,883
March	14,885	11,041	10,208	9,743
April	13,138	9,414	9,847	10,056
May	12,045	9,829	10,101	10,130
June	13,038	10,152	9,303	10,498
July	12,416	9,513	9,131	11,093
August	13,338	10,562	10,065	11,232
September	11,925	9,235	7,711	8,982
<b>FY TOTAL</b>	<b>150,475</b>	<b>122,663</b>	<b>111,641</b>	<b>118,053</b>

## Notices of Disagreement Received FY 10 - FY 13



**Board of Veterans' Appeals  
Board Dispositions by VA Program FY 13**

APPEAL PROGRAM	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
<b>Burial Benefits</b>	3	9.1%	9	27.3%	21	63.6%	0	0.0%	33	0.10%
<b>Compensation</b>	10,725	26.6%	18,504	45.8%	9,554	23.7%	1,581	3.9%	40,364	96.3%
<b>Education</b>	35	13.5%	100	38.6%	112	43.2%	12	4.6%	259	0.6%
<b>Insurance</b>	0	0.0%	2	25.0%	6	75.0%	0	0.0%	8	0.0%
<b>Loan Guaranty</b>	2	15.4%	2	15.4%	9	69.2%	0	0.0%	13	0.0%
<b>Medical</b>	66	21.2%	127	40.8%	87	28.0%	31	10.0%	311	0.7%
<b>Pension</b>	38	9.1%	160	38.5%	194	46.6%	24	5.8%	416	1.0%
<b>VR&amp;C</b>	2	6.5%	12	38.7%	16	51.6%	1	3.2%	31	0.1%
<b>Other Programs</b>	2	6.1%	8	24.2%	20	60.6%	3	9.1%	33	0.1%
<b>BVA Original Jurisdiction</b>	7	9.9%	2	2.8%	41	57.7%	21	29.6%	71	0.2%
<b>NCA Burial Benefits</b>	1	7.7%	1	7.7%	9	69.2%	2	15.4%	13	0.0%
<b>Fiduciary</b>	1	20.0%	1	20.0%	2	40.0%	1	20.0%	5	0.0%
<b>Multiple Program Areas</b>	87	24.6%	187	53.0%	72	20.4%	7	2.0%	353	0.8%
<b>GRAND TOTAL</b>	<b>10,969</b>	<b>26.2%</b>	<b>19,115</b>	<b>45.6%</b>	<b>10,143</b>	<b>24.2%</b>	<b>1,683</b>	<b>4.0%</b>	<b>41,910</b>	<b>100.0%</b>

### Board Dispositions by Representation FY 13

REPRESENTATION	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
American Legion	1,751	25.3%	3,198	46.3%	1,650	23.9%	309	4.5%	6,908	16.5%
AMVETS	43	25.9%	72	43.4%	39	23.5%	12	7.2%	166	0.4%
Disabled American Veterans	3,265	26.9%	5,665	46.7%	2,628	21.7%	574	4.7%	12,132	28.9%
Military Order of the Purple Heart	118	29.6%	166	41.7%	99	24.9%	15	3.8%	398	0.9%
Paralyzed Veterans of America	88	25.5%	164	47.5%	74	21.4%	19	5.5%	345	0.8%
Veterans of Foreign Wars	1,187	28.6%	1,826	44.0%	974	23.5%	162	3.9%	4,149	9.9%
Vietnam Veterans of America	214	22.6%	463	48.8%	188	19.8%	83	8.8%	948	2.3%
State Service Organizations	1,909	26.2%	3,247	44.6%	1,922	26.4%	196	2.7%	7,274	17.4%
Attorney	1,256	31.0%	2,006	49.6%	624	15.4%	162	4.0%	4,048	9.7%
Agent	84	27.0%	145	46.6%	68	21.9%	14	4.5%	311	0.7%
Other	207	23.9%	400	46.1%	225	26.0%	35	4.0%	867	2.1%
No Representation	847	19.4%	1,763	40.4%	1,652	37.9%	102	2.3%	4,364	10.4%
<b>GRAND TOTAL</b>	<b>10,969</b>	<b>26.2%</b>	<b>19,115</b>	<b>45.6%</b>	<b>10,143</b>	<b>24.2%</b>	<b>1,683</b>	<b>4.0%</b>	<b>41,910</b>	<b>100.0%</b>

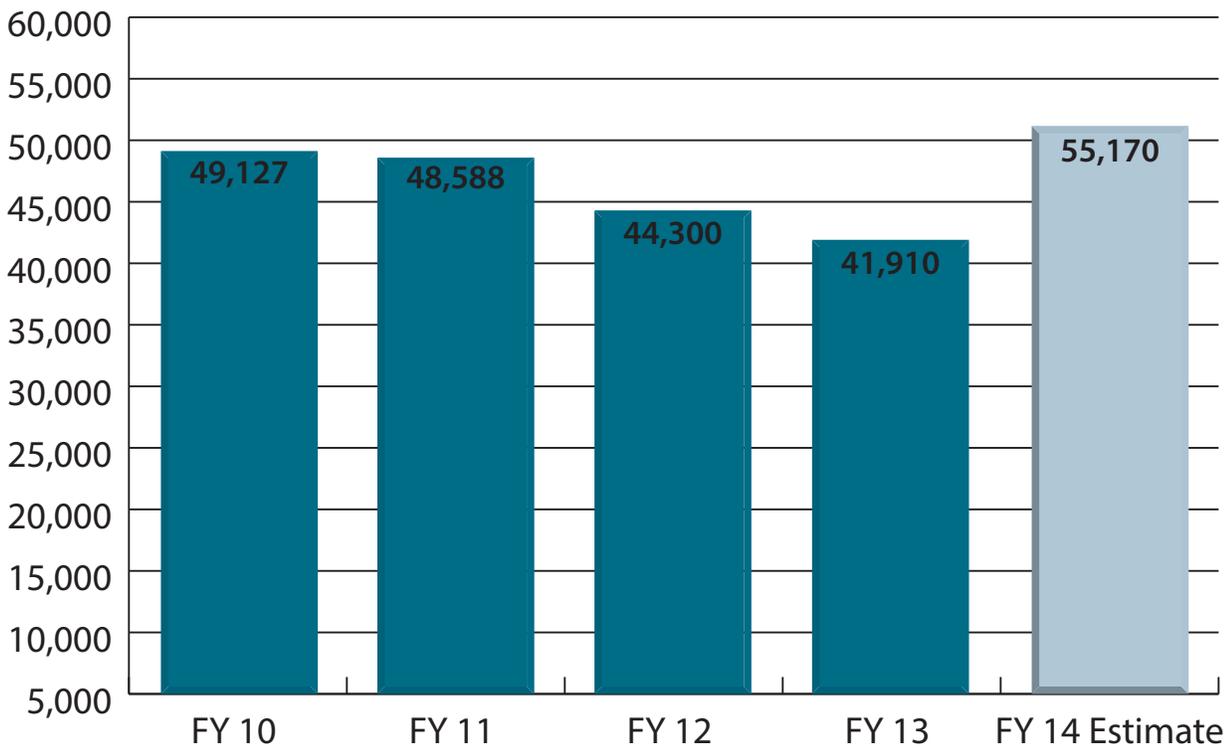
### Board Decisions FY 13

Fiscal Year	Decisions	Allowed	Remanded*	Denied	Other
2010	49,127	26.9%	42.4%	28.1%	2.6%
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%

\*Notably, 64 percent of remanded cases 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 10 - FY 13



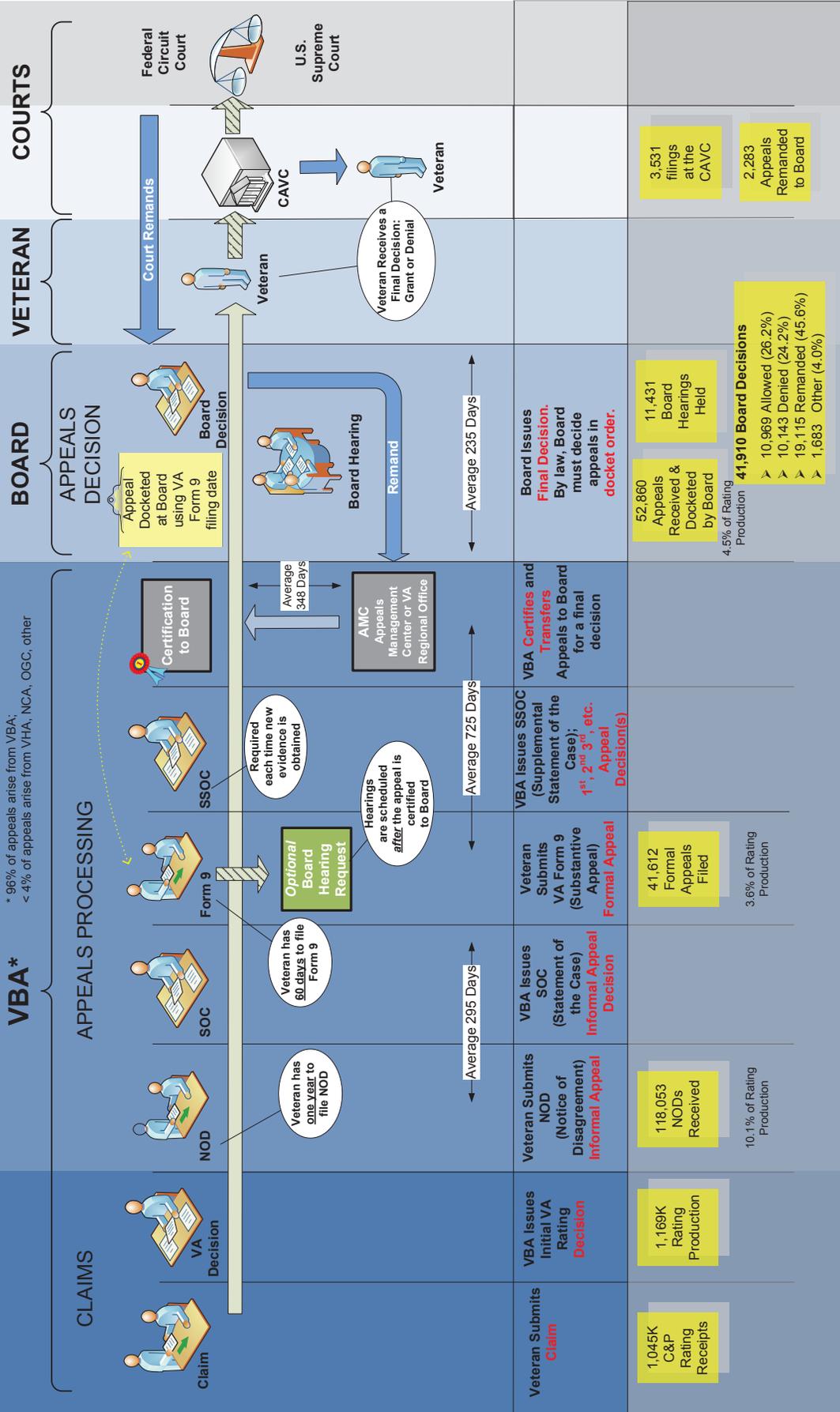
## Board Operating Statistics FY 10 - FY 13

	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>	<b>FY 13</b>
Decisions	49,127	48,558	44,300	41,910
Case Receipts*				
Added to Docket	57,925	38,606	37,326	41,612
Received at Board	52,526	47,763	49,611	52,860
Cases Pending**	45,722	41,005	45,959	60,365
Hearings - VACO	589	625	494	436
Video	3,979	4,355	4,868	5,778
Field	8,947	9,747	6,972	5,217
TOTAL	13,515	14,727	12,334	11,431
Decisions per FTE	89.7	90.8	87	78.8
Board FTE	549	535	510	532
Board Cycle Time	99	119	117	135
Cost per Case	\$1,507	\$1,574	\$1,671	\$1,848

\*Case Receipts composed of: (1) new cases added to Board's docket; and (2) cases received at 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 by the Court, and cases received for reconsideration or vacate actions).

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

# Life Cycle of a VA Appeal





**U.S. Department of Veterans Affairs**

Board of Veterans' Appeals

Report of the Chairman

Fiscal Year 2013