



Department of Veterans Affairs (VA)

Board of Veterans' Appeals

**Annual Report
Fiscal Year (FY) 2022**

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Board Senior Leadership

(as of the end of FY 2022)

Chairman

Jaime A. Areizaga-Soto

Vice Chairman

Kenneth A. Arnold

Deputy Vice Chairmen

Christopher A. Santoro

Tamia Gordon Robert C. Scharnberger Thomas M. Rodrigues

Chief Counsel

Anthony C. Sciré, Jr

Executive Director

Nina Tann

Veterans Law Judges

Allen, Keith	Graham, Mary Caryn	Neill, Steven
Ames, Dorilyn	Gratz, David	Nichols, Jane
Auer, Marjorie	Gunn, Kristi	Norman, John
Banfield, Kathy	Hachey, Donnie	O'Shay, Thomas
Bardin Jimmy L.	Haddock, Kristin	Pappas, Michael
Barnard, Lisa	Hager, Jonathan	Parakkal, Kalpana
Blackwelder, Matthew	Harris, Leetra J.	Parker, Jeffrey
Bland, Ardie	Heneks, Stacey	Peters, Martin B.
Brant, Jenna	Herman, Michael	Picton, Cory
Brenningmeyer, David	Howell, Linda Anne	Poulson, Rebecca N.
Bruce, Cynthia	Hutcheson, John	Raymond, Teresa
Buck, Bethany	Hwa, Jennifer	Rein, Lesley
Burton, Paulette V.	Hyland, Marti	Reiss, Steven
Bush, Sonnet	Ishizawar, Amy	Reynolds, Tara
Caracciolo, Angeline	Jaeger, Anne	Roberts, Harvey
Casey, Paul	Johnson, Dana	Robertson, David H.
Casey, Theophilos	Jones, John	Seesel, Holly
Catino, Theresa	Josh, Freeman	Seppanen, Christopher
Caylor, Marissa	Kane, Michelle	Simpson, Alexandra
Chiappetta, Vincent	Keane, Stephen	Skaltsounis, Michael
Chu, Lana	Kennerly, Karen	Skow, Cynthia
Clementi, Vito	Kessel, Ryan	Slabbekorn, Ray
Collins, Laura	Kilcoyne, Michael	Smith, Tanya

Conner, Kelly	Kirby, Jennifer	Sorisio, Mary
Costello, Rachel	B. Thomas Knope	Sorisio, Paul
Cothrel, Tim	Kordich, Kelli	Spector, Amanda
Crawford, Cherry	Kramer, Jonathan	Speranza, Shaun
Crowley, John	Krembs, Simone	Strommen, Gayle
Cryan, Lauren	Lane, Michael	Tamlyn, Emily
Daknis, Wendy	Larkin, Mary Ellen	Tenner, Matthew
Dawson, Tiffany	Leboff, Eric	Trueba, Claudia
Deichert, Evan	Mackenzie, Andrew	Velez, Estela
DiLorenzo, Paula	Mainelli, Anthony	Walker, Helena
Doan, Nathaniel	Mann, Melanie J.	Wasik, Glenn
Donnelly, William	Marcus, Fulton	White, Jennifer
Donohue, Michael	Marcus, Shereen	White, Yvette R.
Doolittle, John	Martin, Michael	Whitehead, DeYvonne
English, Thomas L.	Mays, Simone	Wight, David
Feinberg, Rebecca	McCarron Paula B.	G. William Riggs
Fleming, Caroline	Minami, Ann	Zadora, Kristy
Francis, John	Mincey, Danette	Zissimos, Jessica
Gallun, Eric	Mitchell, Martin	
Glaser-Allen, Colleen M.	Moshiashwili, Victoria	

**Department of Veterans Affairs
Board of Veterans' Appeals
FY 2022 Veterans Law Judges**

Introduction

The Board of Veterans' Appeals (Board) is the component of the Department of Veterans Affairs (VA) responsible for entering the final decision on behalf of the Secretary in each appeal of a claim for entitlement to Veterans' benefits. The Board's mission, as codified in 38 U.S.C. § 7101(a), is "to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner."

To accomplish this mission, the Board issues quality decisions, in compliance with the requirements of the law, on all appeals for entitlement to Veterans' benefits and services from the three Administrations at VA – Veterans Benefits Administration (VBA), Veterans Health Administration (VHA), and National Cemetery Administration (NCA), as well as the Office of General Counsel (OGC). The Board's jurisdiction extends to all questions of law or fact in a matter involving a decision by the Secretary under the law that affects provision of benefits by the Secretary to Veterans, their dependents, or their survivors. 38 U.S.C. § 522(a); 7104(a). Final decisions on appeals are made by the Board based on the entire record in the proceeding and all applicable provisions of law and regulation (38 U.S.C. § 7104(a)).

The Board is committed to the Department's core values of Integrity, Commitment, Advocacy, Respect, and Excellence (**I CARE**). These values are integral to fulfilling the Board's statutory mission to fully consider and resolve appeals raised by Veterans, their dependents, or their survivors.

The Board remains dedicated to providing excellent customer service to Veterans, their dependents, or their survivors. This includes aligning strategic direction, improving business processes, making technology updates, and reviewing data to form a Veteran-centric, results-driven and forward-thinking organization.

After the end of each fiscal year (FY), the Chairman is required to prepare a report on the activities of the Board during that FY and the projected activities of the Board for the current and subsequent FYs (38 U.S.C. § 7101(d)(1)).

This Annual Report includes the following two parts:

- **Part I** provides a discussion of Board activities during FY 2022 and projected activities for FY 2023 and FY 2024; and
- **Part II** provides statistical information related to the Board's activities during FY 2022 and its projected activities for FY 2023 and 2024.

PART I

The Board of Veterans' Appeals

Mission

On July 28, 1933, President Franklin Delano Roosevelt established the Board through Executive Order 6230. The Board's mission, as set forth in 38 U.S.C. § 7101(a), is “to conduct hearings and dispose of appeals properly before the Board in a timely manner.”

Board Structure in FY 2022

The Board is comprised of a Chairman, Vice Chairman, and such number of Veterans Law Judges (VLJs) and Board members as are necessary to meet the Board's mission to conduct hearings and dispose of appeals properly before the Board in a timely manner (38 U.S.C. § 7101(a)). VLJs are recommended by the Chairman, approved by the President, and appointed by the Secretary of the VA (38 U.S.C. § 7101A(a)(1)).

Throughout FY 2022, the Board continued most operations in a virtual environment, while it also increased Veteran-facing full time equivalent (FTE) staff and continued to improve application of the Veterans Appeals Improvement and Modernization Act of 2017 (AMA), which was implemented in FY 2019. The Board's organizational structure in FY 2022 was comprised of four main components: the Office of the Chairman, the Office of Appellate Operations, the Office of the Chief Counsel, and the Office of Appellate Support (See Figure 1 on page 7).

The Office of the Chairman is led by the Chairman with the support of a Vice Chairman. The Chairman is appointed by the President for a statutory term of 6 years and is confirmed by the Senate. The Chairman is directly accountable to the Secretary (38 U.S.C. § 7101(a)). The Vice Chairman is a member of the Senior Executive Service (SES) who is designated by the Secretary and serves as the Board's Chief Operating Officer (38 U.S.C. § 7101(a)). Both the Chairman and the Vice Chairman are Board Members.

The Vice Chairman oversees the Office of Appellate Operations, the Office of Chief Counsel, the Office of Appellate Support, the Chief of Staff, the Office of the Clerk of the Board (currently the Senior Deputy Vice Chairman oversees the Clerk of the Board until a new SES position can be established) and the Office of Budget and Internal Controls. The Office of Appellate Operations is overseen by a Senior Deputy Vice Chairman and split into three sections, with each section headed by a Deputy Vice Chairman (DVC), all of whom are members of the SES. Collectively, these three DVCs oversaw the appeals adjudication work accomplished by 125 VLJs and 873 attorneys supporting those judges at the end of FY 2022.

The Board’s Chief Counsel, a member of the SES, oversees the Office of Assessment and Improvement (OAI), Office of Litigation and Customer Support, Professional Development Division (PDD), Privacy Act and Freedom of Information Act (FOIA) Office and Office of Records Management.

The Board’s Office of Appellate Support is managed by an SES Executive Director who oversees the offices of Program Management and Logistics, Technical Infrastructure and Human Resource Liaison.

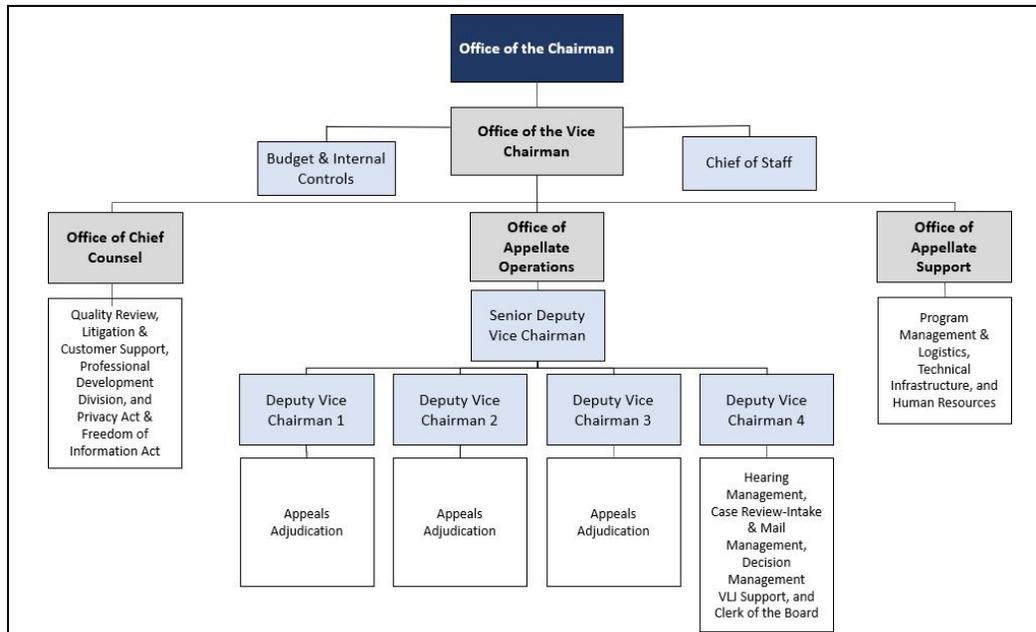


Figure 1. FY 2022

Organizational Structure

With the onboarding of additional staff, the Board will continue to review and refine assignments on the organizational chart during FY 2023.

FY 2022 – Serving Veterans, their Families and Survivors

Traditionally, many have defined Board mission success by the number of hearings held and the number of appellate decisions issued during a given fiscal year as noted below in Figure 2.

Figure 2. Board Metrics FY 2022 Snapshot



However, Board mission success is ultimately defined by what Veterans experience during the lifecycle of their cases on appeal, from the initial filing all the way until they receive a final written decision from a Board Veterans Law Judge. Currently, many Veterans are waiting a long time for their requested hearings and final decisions from the Board, and the Board has been focused on reducing those wait times with increased hiring to handle increased workloads. In FY 2022, the Board set another all-time record on the number of hearings held for the second year in a row: over 25% more than during FY 2021 and over 92% more than during FY 2020. This translated into a 78% reduction in pending legacy appeal system hearings during FY 2022 with just over 7,000 to complete during FY 2023. FY 2022 was the fourth consecutive year where the Board issued well over 95,000 decisions. However, the Board’s focus on the Veteran experience led to more impressive results, with a sharp rise in Veteran trust scores from the time they initially file their appeal to receipt of a Board decision, with especially high scores based on their personal experiences with Veterans Law Judges. This occurred while the Board continued to significantly reduce the number of pending Legacy system appeals and work an ever-increasing number of newer Appeals Modernization Act (AMA) appeals with consistently lower remand rates and a steady grant rate 10% higher than for Legacy system appeals.

Hearings

After an analysis of the impacts caused by COVID-related shutdowns revealed the number of pending hearings had dramatically increased in FY 2021, the Board made a conscious decision to have VLJs conduct more hearings during FY 2022. As a result, the Board drove a steady increase in the number of hearings held per month, from 869 in October 2020 to an average of 2,500 hearings held per month in FY 2022 and held a record of 30,089 hearings (see Figure 3 below).

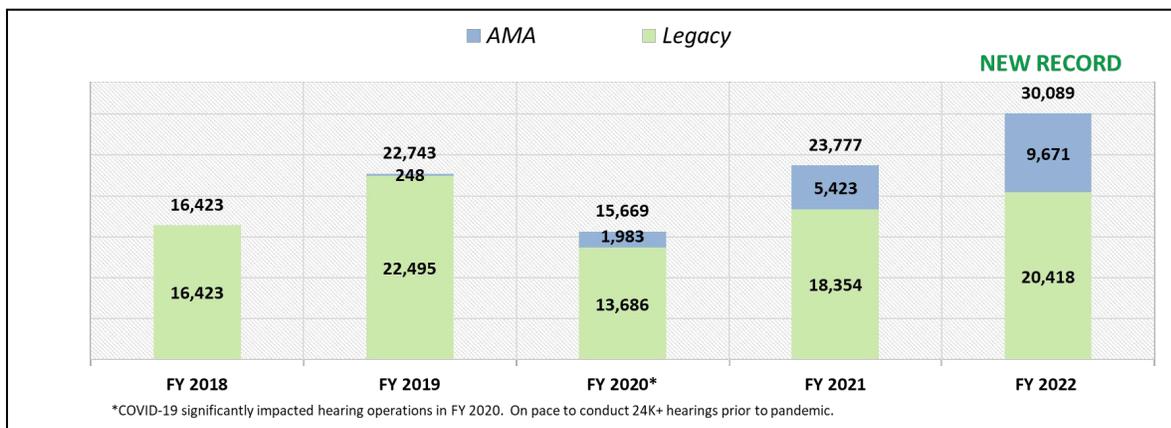


Figure 3. Total

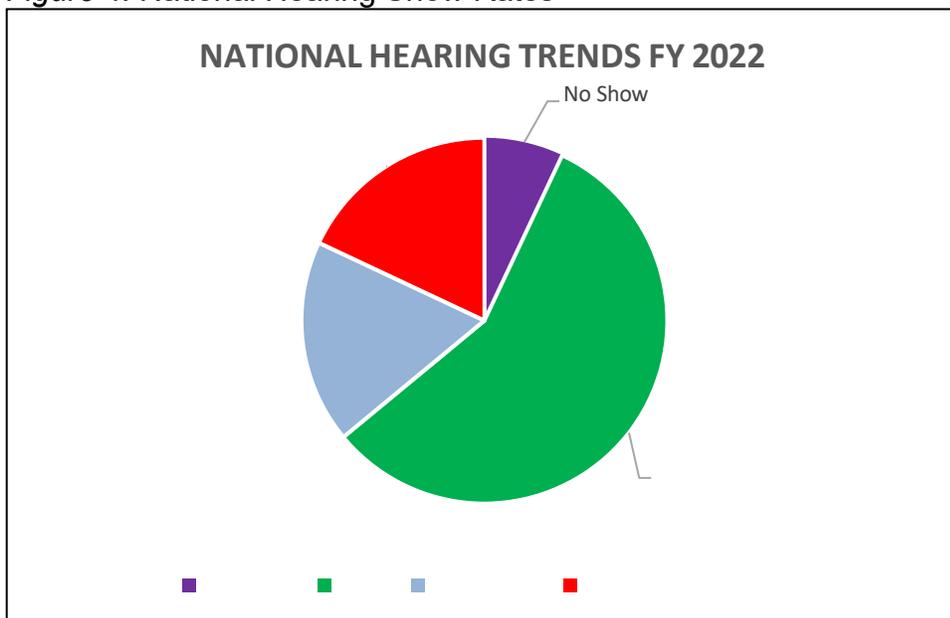
Hearings Held FY 2018 - FY2022.

Over 80% of this 89-year record high number of FY 2022 hearings were held using virtual tele-hearing technologies. Each Veteran, their representative, and a Veterans Law judge “met” over a video link from separate locations, eliminating the need for the Veteran to travel to meet in-person at a Regional Office facility with their representative before getting on a two-way video teleconference with a VLJ. This approach was

allowed under the VA Tele-Hearing Modernization Act (P.L. 116-137) which was signed into law at the beginning of the pandemic in April 2020. Conducting hearings this way has been a game-changer in making the hearing process less burdensome and more convenient for Veterans by avoiding the need for them to travel long distances, especially with the physical and health challenges many Veterans face. However, across the enterprise we need to do more to improve the show rate for hearings because they must be scheduled at least 30 days in advance, and we face too many last-minute withdrawals, cancellations, no-shows, and postponements where those slots cannot then be utilized by other waiting Veterans.

A total of 52,942 hearings were scheduled to occur during FY 2022. As noted above, 30,089 were held and another 9,251 were canceled/withdrawn by the Veteran. This results in a total of 39,340 (73%) requested hearings being resolved. The hearing held rate for FY 2022 was approximately 57%, the same rate as FY 2021. As for the remaining hearings, approximately 18% were postponed, 18% were canceled and the Appellant failed to appear in about 7% of the scheduled hearings (see Figure 4 below). The increase in the total number of hearings held from 23,777 in FY 2021 to 30,089 in FY 2022 is a year-over-year increase of almost 27%.

Figure 4. National Hearing Show Rates



It is important to keep in mind there are only so many VLJs at the Board and they are the only ones who can both hold hearings and decide cases. The Board has the capacity to hold approximately 1,000 hearings each week. However, many Veterans are represented at no cost by the Veterans Service Organization (VSO) partners who do not have that same capacity. In addition, there are also accredited representatives who represent Veterans, sometimes waiting years for a requested hearing, only to waive the requested hearing once it finally gets scheduled. Again, nearly half of all scheduled hearings are cancelled or withdrawn with insufficient time for the Board to fill that empty slot with another Veteran waiting patiently in line. Worse, in these cases, the Board's

judges have spent precious time reviewing case files and preparing for hearings not held, where that time could have been better utilized reviewing, editing and signing draft decisions for waiting Veterans. Figure 4 on page 9 illustrates the ratio of hearings held versus hearings scheduled and highlights the challenge to ensure judge availability is maximized.

The Board successfully reduced the number of pending Legacy hearing requests from 32,574 at the start of FY 2022, to just 7,150 at the end of FY 2022. Conversely, the Board had 67,261 more recently requested AMA hearings pending at the end of FY 2022, an increase of 12,511 (22%). That said, the percentage of AMA appeals being filed at the Board where the Veteran also requests a hearing has been dropping since the AMA was first implemented. See Figure 5 below for a breakdown of hearings held per month by each hearing type.

Figure 5. Hearings Held by Month

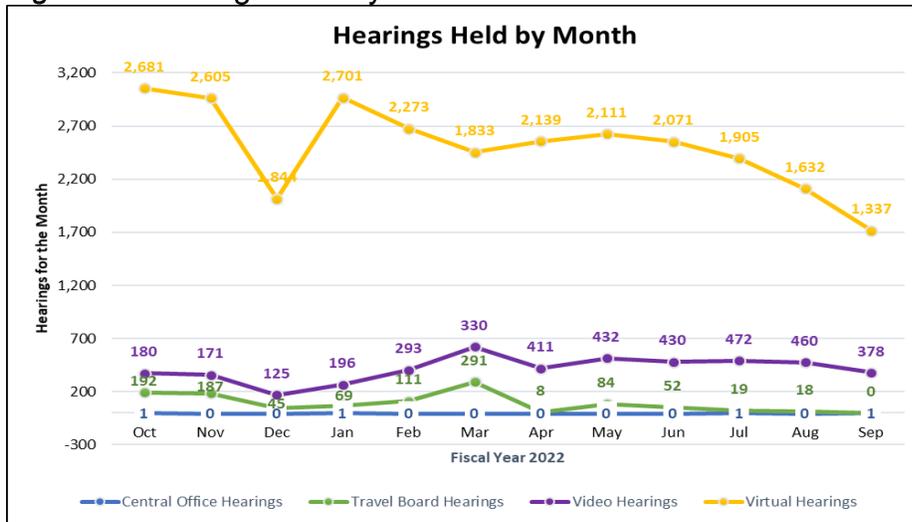


Figure 6, below, shows the number of pending hearings at the Board.

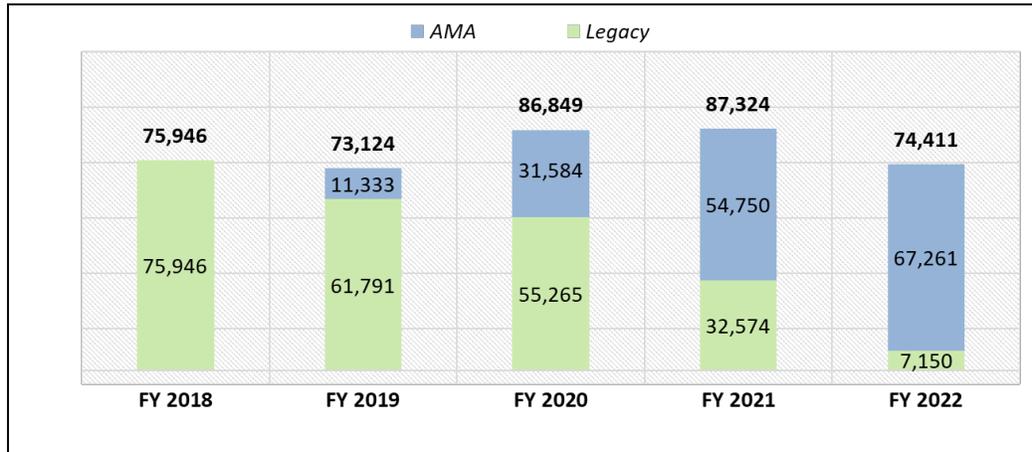


Figure 6. Pending Hearing Requests

Table 1 below shows the breakdown of AMA net case receipts for FY 2022 and reveals trends showing changes in Veterans choice when choosing appeals with hearings versus other review options. The Direct Review docket increased to approximately 42% while the Hearing docket decreased to 39%. The Evidence Submission docket percentage also slightly decreased from 21% in FY 2021 to 19% in FY 2022. The data clearly shows that Veterans are increasingly choosing the AMA Direct Review over the Hearing docket.

Table 1. AMA Net Case Receipts

AMA Net Case Receipts			
	FY 2020	FY 2021	FY 2022
Direct Review	36%	38%	42%
Evidence Submission	17%	21%	19%
Hearing	47%	41%	39%

Expanded virtual tele-hearing capacity, and enhanced hearing scheduling and docket notice/reminder improvements in the Caseflow case management system have led to greater collaboration with Veterans and their representatives to allow faster and more convenient hearings for Veterans and their families. The Board's ability to provide virtual tele-hearings to Veterans in the comfort of their own home (or any other location of their choosing) made a phenomenal difference in the wake of public health restrictions imposed by the COVID-19 pandemic and continuing health care concerns many Veterans and their representatives have about traveling and in-person meetings. Because this option allows Veterans better and faster access, the Board has focused on improved education campaigns and other communications with Veterans through multiple outreach efforts to better ensure they know their hearing options and how to

easily opt into a virtual tele-hearing format.

Virtual Tele-Hearing Technology

Virtual hearing technology supported approximately 83.5% of all Board hearings during FY 2022—a marked increase from FY 2021. However, one trend the Board continues to watch is the monthly percentage of overall hearings held that were accomplished using virtual tele-hearings versus video teleconferencing where the Veteran is required to travel to a Regional Office to meet with their representative in-person even though the Board judge was connected via video. Over the course of the past year, there has been a slight drop in three-point virtual tele-hearings with a corresponding increase in two-point video teleconferencing for hearings and it is unclear whether this is reflective of Veteran choice versus representative preferences. If the trend continues, the Board will provide detailed statistics as part of the next Annual Report. Virtual metrics for both years are shown below in Table 2.

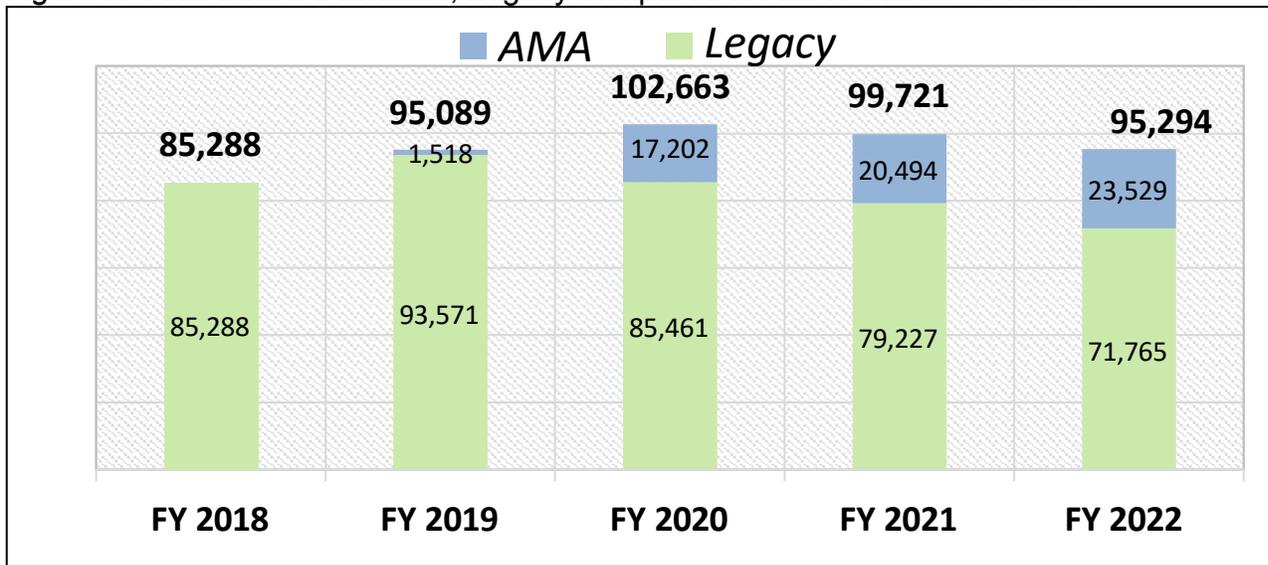
Table 2. Comparison of Virtual Hearing Scheduled and held

Total FY 2022 Virtual Hearings Scheduled	36,066
Total FY 2022 Virtual Hearings Held	25,131
Total FY 2021 Virtual Hearings Scheduled	34,049
Total FY 2021 Virtual Hearings Held	22,897

Decisions

In FY 2022, the Board dispatched 95,294 decisions for Veterans and their families. This represents the fourth consecutive year that the Board provided over 95,000 decisions, with a total of 392,767 decisions over that time period. Approximately 75% (71,765) of the Board's FY 2022 decisions were Legacy system appeals and about 25% were newer AMA appeals. While some external stakeholders have expressed concern that the raw number of decisions issued during FY 2022 was slightly lower than the two previous years, as noted above with respect to hearings held, the Board made a conscious decision during FY 2021 and FY 2022 to address the increasing hearing backlog that occurred during the first year of the pandemic in FY 2020, when the Board was only able to hold 15,669 hearings versus the 30,089 hearings held during FY 2022. See Figure 7 on page 13 for the 5-year trend in appeals adjudicated by the Board.

Figure 7. Total Board Decisions, Legacy compared to AMA FY2018 - FY2022



By law, the Board must generally decide appeals in the order they are docketed (initially filed) with the Board, except for those cases advanced on the docket (AOD) for extenuating circumstances as set out in statute or cases returned to the Board for expedited processing after remand. The docket order addressed in 38 U.S.C. § 7107(a)(1) and maintained by the Board must account for AOD cases, cases that receive expedited treatment on remand from the United States Court of Appeals for Veterans Claims (CAVC or Court), cases that have been returned to the Board from the Agency of Original Jurisdiction (AOJ) (for example, VBA, VHA or NCA) following remand, and cases that either are awaiting or have had a hearing. Overall, this means cases are generally worked on a first-come, first-served basis. For example, Legacy cases either remanded from the Court, or remanded to the AOJ by the Board, maintain their original docket numbers upon return to the Board and generally must be expedited ahead of most other cases. Thousands of cases previously adjudicated by the Board are remanded and returned to the Board each year by the Court. These returned cases move ahead of other first-time appeals awaiting adjudication even though these remanded cases usually do not result in a different outcome upon re-adjudication by the Board. As can be seen in Figure 8 on page 14, AOD cases, Court remands, and returned remands have significantly impacted the composition of the Board’s annual workload during the past three years.

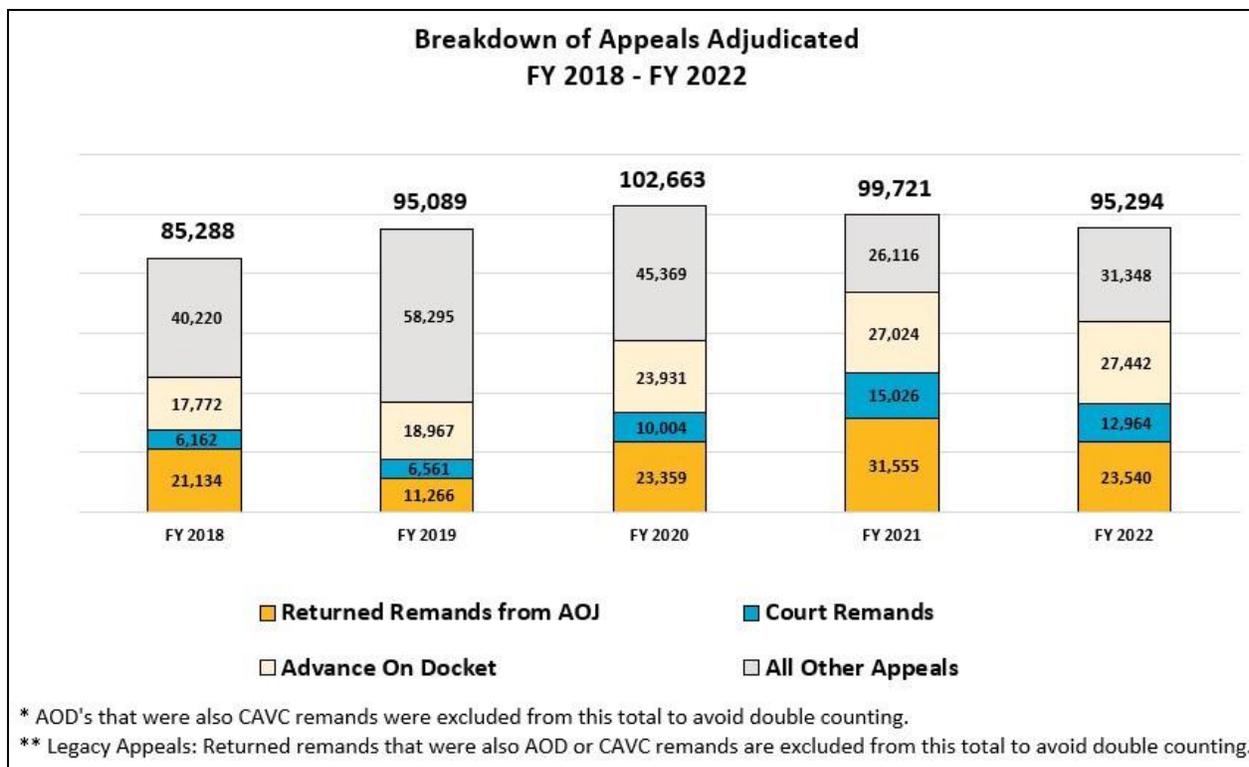


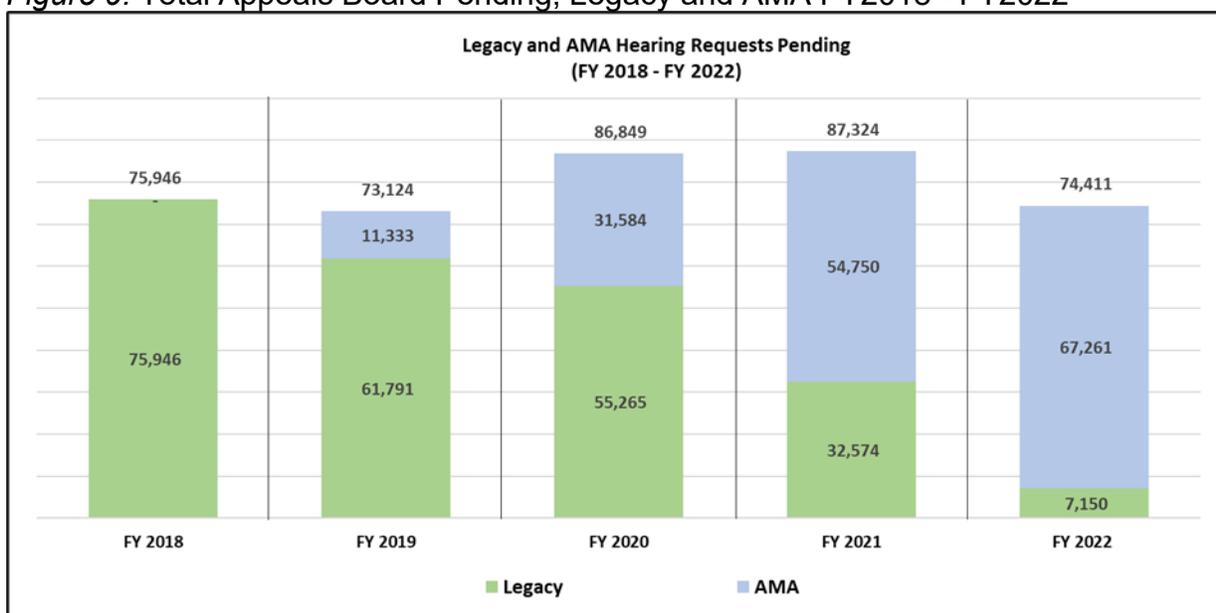
Figure 8.

Breakdown of Adjudicated Appeals between FY 2018 and FY 2022

Adjudication of original Legacy appeals has taken longer than anticipated because of the constraints placed on docket order by including Advance on Docket (AOD) cases (age, financial hardship, serious health conditions), Court remands, and post-remanded appeals with earlier Form 9 dates. As a result, approximately 70% of Legacy appeals adjudicated are either AOD, Court remands or post-remand appeals recertified to the Board from VBA.

These trends are concerning because, with rare exception, the remands reflected above are Legacy appeal system cases and many have been remanded multiple times, usually with no change in outcomes for a Veteran. Indeed, at least 80% of appeals remanded by the Court are “Clerk” dispositions. While it is true that the majority of Court judge decisions are also remanded to the Board to provide additional “reasons and bases” to support why the Board denied the appeal, Court judge dispositions on the merits overwhelmingly uphold Board decisions at a rate of at least 95% affirmed to less than 5% reversed. It is important to note that remanded appeals returned to the Board for re-evaluation by a Board judge is a key factor in keeping Board judges from considering over 30,000 other original Legacy appeal cases that have never been previously evaluated by a Board judge. It has also delayed Board judges from evaluating higher numbers of more recently filed AMA system appeals. Figure 9 on page 15 depicts the total number of appeals pending at the Board from FY 2018 to FY 2022 and indicates which legal system they are in.

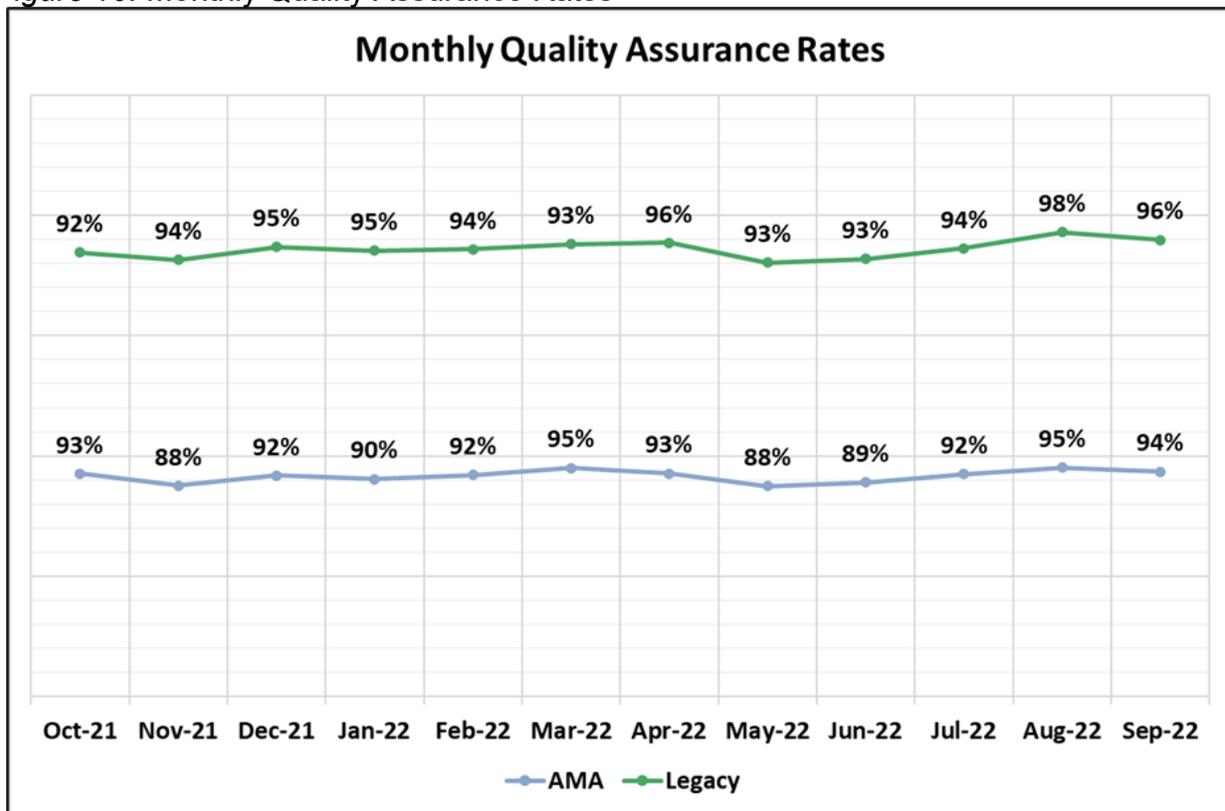
Figure 9. Total Appeals Board Pending, Legacy and AMA FY2018 - FY2022



Quality Assurance (QA)

Because the Board is addressing such a high volume of pending appeals each year, some external stakeholders have expressed concern that this pace of work at the Board might sacrifice the quality of decision-making by Board judges. However, the Board is committed to ensuring every appeal is decided as efficiently as possible, with a high degree of confidence that the Board’s judges are appropriately resolving appeals in accordance with the law (see Figure 10 on page 16). For example, the Board’s Office of the Chief Counsel has specially trained attorneys that meticulously review thousands of decisions issued each year before releasing those decisions to the Veterans. The attorneys identify procedural issues or other potential flaws in these decisions even though those identified issues do not amount to clear legal error. As an example, OAI can identify and prevent unnecessary remands when a VLJ attempts to remand a case for additional development of evidence, but the evidentiary window has already closed. While not prejudicial to the Veteran’s case, it is still flagged as an “error.” Like an umpire who calls “strikes” with a very big “strike zone,” in the Board’s QA process, the overwhelming majority of “strikes” called involve circumstances where there is no clear legal error at all. Any potential issues or errors found during the QA review process are called to the attention of the VLJ who signed the decision, providing the opportunity for them to revise or improve the decision. Virtually all errors the Board discovers during its QA review are process or procedural errors. The Board’s independent review process almost hardly ever finds a “clear and unmistakable error” that would cause a case to be overturned on appeal. Figure 10 on page 16 illustrates the percent of decisions reviewed where no flaws can be found with the judge’s written decision. The annual goal is to achieve 92% quality assurance rates in both systems.

Figure 10. Monthly Quality Assurance Rates



During FY 2022, the Board continued to challenge employees to maintain high quality levels. In this regard, the Board chose to oversample the proportion of AMA cases reviewed to help ensure judges and counsel are appropriately addressing the different procedural requirements under the AMA appeals system. Of the more than 3,400 cases sampled during FY 2022, statistical analysis revealed a quality assurance rate of approximately 94.66% for Legacy appeals decisions and approximately 91.91% for AMA appeals decisions.

It is important to observe that the mere discovery of an “error” in a decision does not mean that the Board’s decision was “wrong.” In FY 2022, of the total 261 errors called, only 4 errors were deemed clearly and unmistakably erroneous, where the decision erroneously states the facts or the law and, but for the error, the decision result would have been manifestly different. Out of 3,422 cases reviewed in FY 2022, those 4 errors that would have required a different result amounted to a clear and unmistakable error rate of only 0.12 percent.

There are many other QA “error” categories that do not necessarily involve a procedural defect or incorrect outcome. For example, customer service errors, like having the correct name on the decision, promotes confidence in the Board’s decision and appeals process. In FY 2022, approximately 7.28% of errors identified in the Board’s QA process were based on a need for the Board to fully address all raised contentions and theories of entitlement. Again, please note that fully addressing each contention or

theory of entitlement does not necessarily result in a different outcome. OAI also reviews Board decisions to ensure compliance with the duty to assist and evidentiary rules under the AMA, even if such an “error” is not adverse to the appellant.

OAI monitors and evaluates the outcome of appeals taken to the Court and the United States Court of Appeals for the Federal Circuit (Federal Circuit). In FY 2022, the Board issued 95,294 decisions. Each year, approximately 8% to 9% of the Board’s decisions are appealed to the CAVC. Of that percentage, many appeals are returned to the Board pursuant to a Joint Motion for Remand (JMR), which is reviewed and disposed of by the Clerk of the Court and not a CAVC Judge. A JMR remands the appeal from the Court back to the Board and often includes instructions for VA to follow. OAI also monitors these JMRs, as well as other Court trends. In FY 2022, the Board received approximately 6,005 JMRs from the CAVC.

As noted above, the Board has issued on average more than 95,000 decisions each year during the past 4 years. The Board grants relief on approximately 20-30% of the issues that come before it in the two appeals systems and remands tens of thousands of cases for further evidence based on VA’s duty to assist. Generally, more than 40,000 appeals, those where full relief was not granted, are eligible for appeal each year. Of that number, reports indicate that approximately 20% of those cases (between 8,000-9,000) are appealed to the Court each year. Notably, as the number of Board decisions has increased, the percentage of cases appealed to the Court has remained consistent. Annual reports show the Court reverses very few Board decisions for being “clearly erroneous.” More often, Court clerks and VA Office of General Counsel attorneys agree to jointly remand select issues from appealed cases back to the Board so the judge can further explain the reasons and bases supporting the judge’s denial. This is not legal error, but rather, the parties attempt to ensure the rationale supporting the Board’s decision is more fully articulated to the Veteran and their counsel.

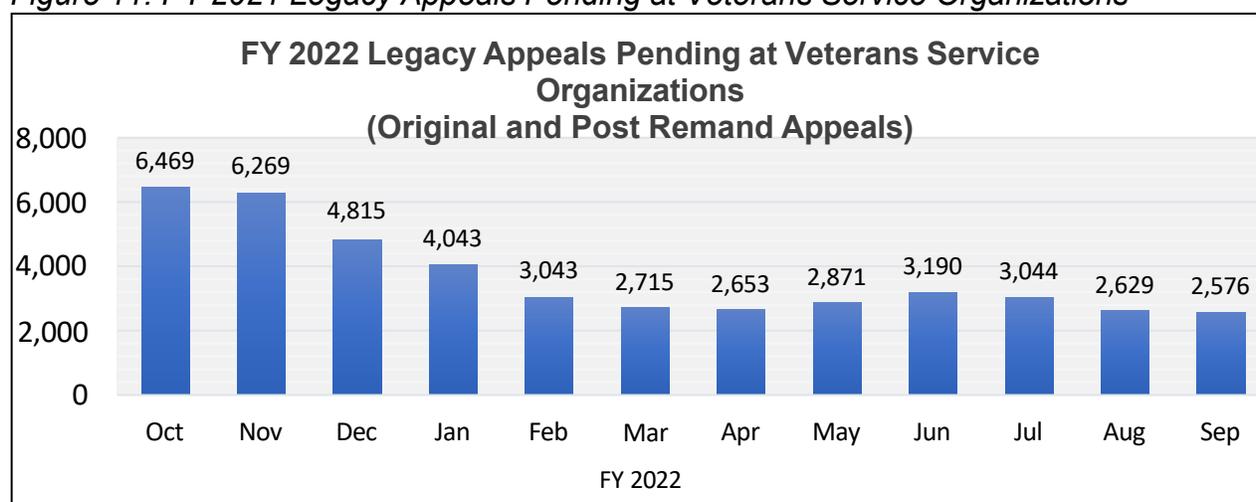
Under the AMA, Veterans and appellants have an additional method of requesting review of a Board decision other than appealing to the Court of Appeals for Veterans Claims. Veterans can file a supplemental claim with new and relevant evidence to request review of a Board decision. As long as Veterans continuously appeal their claim within the allotted time period, if it is eventually granted, the effective date can go back to the initial claim.

VSO Coordination on Pending Legacy System Appeals Inventory

In FY 2022, the Board continued its significant outreach, training and coordination with VSO partners to more efficiently process cases and improve the Veteran experience by working in partnership with VSOs and the private bar to establish case management system access for external stakeholders to review inventory, tasks and hearing schedules.

Based on the Board’s close working relationship with co-located VSOs, Legacy system appeals inventory awaiting VSO preparation of an informal hearing presentation (IHP) decreased during FY 2022 as shown in below in Figure 11.

Figure 11. FY 2021 Legacy Appeals Pending at Veterans Service Organizations



Eliminating the Board’s Inventory of Pending Legacy System Appeals

Eliminating the Board’s inventory of pending Legacy system appeals will help maximize the number of Veterans served each year. VA’s Legacy Appeals Resolution Plan includes a prioritized reduction of Legacy appeals, informed by continuous stakeholder engagement and sound project management practices. The Resolution Plan has resulted in a marked reduction in the number of pending Legacy appeals before the Board and in all three Administrations: VBA, VHA and NCA. As a result of efforts undertaken for the Legacy Appeals Resolution Plan, VA’s total Legacy appeals inventory decreased almost 43% in the last 2 years. VA’s total Legacy appeals inventory has decreased by more than 80%, from a high of 472,066 in November 2017, to 92,361 at the end of FY 2022.

Table 3 below shows the plan demonstrated significant progress during FY 2022 by reducing the total number of pending Legacy appeals by approximately 26% from 125,340 at the start of FY 2022, to 92,361 at the end of FY 2022. Additional data shown in Figure 12 below shows the number of pending Legacy appeals has continued to decrease into FY 2023.

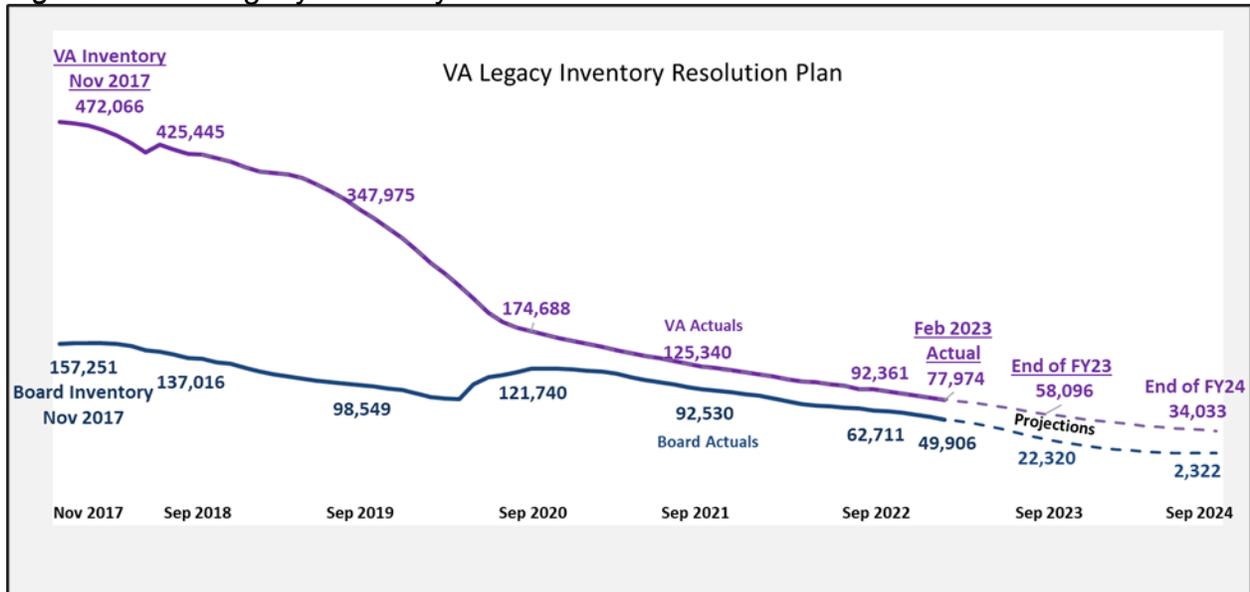
Table 3. Pending Legacy Appeals by VA Office – FY 2021 through FY 2022

	FY 2021				FY 2022			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
VBA	38,611	32,262	32,043	31,425	29,757	30,197	29,770	27,609
VHA	1,888	1,768	1,675	1,444	1,417	1,552	1,668	2,267
NCA	8	3	3	10	6	8	0	0
Board*	120,421	114,089	102,825	92,461	85,721	74,974	68,421	62,485
Total:	160,928	148,122	136,546	125,340	116,901	106,731	99,859	92,361

*Data source for Board inventory totals are from VBA and vary slightly from the Board’s total reported (62,711) throughout this document. Differences are attributed to the timing of when each report is generated.

Figure 12 below outlines the reduction of pending Legacy appeals Department-wide, with a breakout of specific reduction efforts and at the Board. The Board finished 2022 with 209,535 appeals pending adjudication, of which, 62,711 were Legacy appeals. The 95,294 decisions issued in 2022 were slightly lower than earlier estimates for 2 key reasons: (1) the Board made a conscious decision to have VLJs conduct more hearings than ever before in Board history as indicated above; and (2) budgetary constraints, including a continuing resolution during the first 6 months of FY 2022, delayed the Board's hiring efforts.

Figure 12. VA Legacy Inventory Resolution Plan



Despite the significant 83% reduction in overall pending Legacy appeals during the past 4 years, there is still a higher-than-expected number of original Legacy appeals pending an initial decision by the Board and the number of pending Legacy appeals across VA remains higher than previously projected. The initial drawdown plan was developed prior to COVID and was shared on October 29, 2019. The resolution plan has been updated several times since with each iteration incorporating historical actuals and updated assumptions to include the changing environment, workload projections, Board resources, hiring plans and various other factors that influence outcomes.

As the Board continues resolution of Department-wide pending Legacy appeals, a gradual increase in resources available to adjudicate AMA appeals is expected. While only about 26,000 AMA decisions are anticipated in 2023, it is estimated 57,500 AMA decisions will be issued in 2024. The Board anticipates 2024 to be the first year in which the number of AMA decisions will be roughly equal to the number of Legacy decisions. As the Board is able to adjudicate a higher proportion and number of AMA appeals, this will likely result in completion of those AMA appeals that have been pending the longest and for a period of time will likely increase the average days to complete appeals to

levels that exceed the stated timeliness goals.

FY 2022 – Focusing on Veteran Trust

VA understood that the older “Legacy system” claims and appeals process was slow and confusing. In response, Congress passed the AMA, also known as the modernized review system, in 2017. The AMA offers Veterans more choices regarding the type of review they select when they disagree with a VA decision denying a benefit. The law also ensures that Veterans and appellants can preserve the earliest effective date possible by continuously pursuing their claim. This means that as long as a Veteran continuously appeals their claim within the allotted time period, if it is eventually granted, the effective date can go back to the initial claim. The AMA allows Veterans and appellants to seek an additional review following a Board decision without going to the United States Court of Appeals for Veterans Claims; rather they can now file a supplemental claim with the VA office of jurisdiction for review of new and relevant evidence following a Board decision.

While the AMA was designed to help make the claims and appeals process less cumbersome and more efficient, there were still nearly 85,000 Legacy system appeals at the end of December 2022 and these generally represent the oldest appeals where Veterans have been waiting the longest for resolution of their appeals. It is taking longer than expected to fully resolve and sunset Legacy system appeals. However, as shown below in Figures 13-14, early indications are that AMA appeals results are more Veteran-friendly than the older Legacy appeals, resulting in higher Veteran trust scores.

Veterans Choice

The AMA provides more Veteran choice by creating three initial review options for claimants dissatisfied with the initial decisions on their claim. Claimants may seek a higher-level review of the decision based on the same evidence presented to the initial claims processors; they may file a supplemental claim that includes the opportunity to submit additional evidence; or they may file an appeal to the Board.

Veterans appealing to the Board may elect one of three appellate review options, referred to as lanes: 1) a direct review of the same evidence considered by the Agency of Original Jurisdiction (AOJ); 2) an opportunity to submit additional evidence without a hearing; or 3) an opportunity to have a hearing before a VLJ, which also includes the opportunity to submit additional evidence. Figure 13 on page 21 describes the AMA process.

Figure 13. AMA: Which Board Docket to Choose?

AMA: Which Board docket to choose?

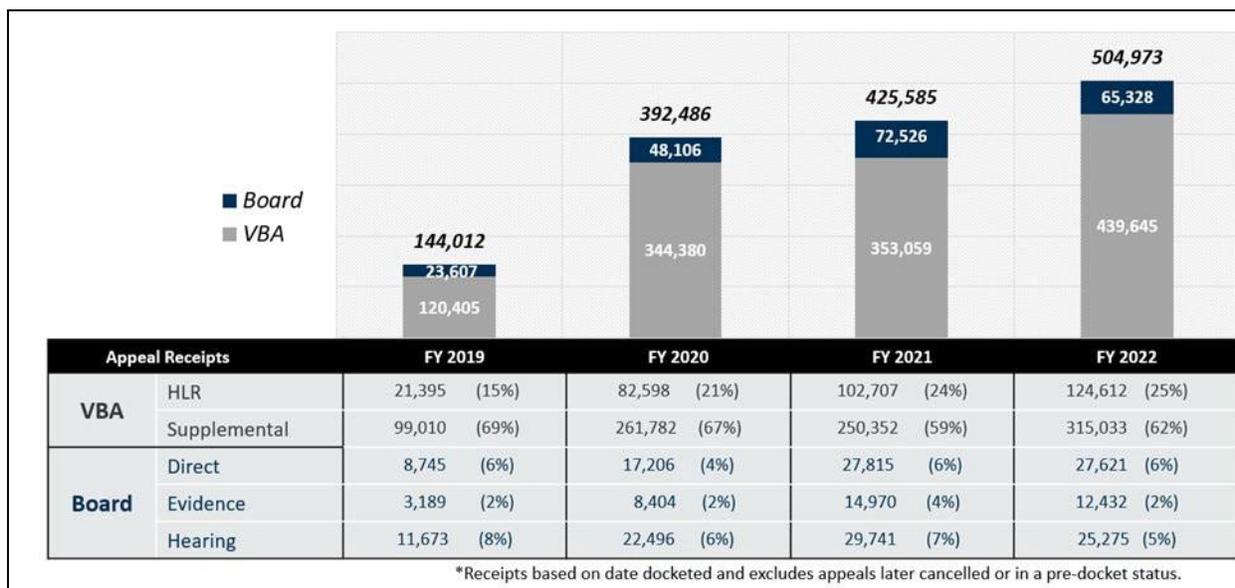


As the AMA emphasized, Veteran choice is an important factor in how long it will take to resolve an appeal. For Veterans and appellants choosing to appeal a decision directly to the Board, there are now three different review options, or “dockets,” they can choose from that best meet their unique circumstances:

- **Direct Review docket:** The fastest way to receive a decision when a Veteran or appellant believes everything needed to approve their claim is already in the file. The Board will not consider any new evidence, and the VLJ will decide their case based on the evidence in the record at the time of the decision they are appealing.
- **Evidence Submission docket:** Some Veterans know they want or need to add additional evidence into their file for consideration by a VLJ. In that case, the Evidence Submission docket allows for additional evidence to be submitted by the Veteran or their representative within 90 days of appealing to the Board.
- **Hearing docket:** On average, it takes the longest to receive a Board decision for appeals on the Hearing docket. This option is best if a Veteran wants to appear personally before a VLJ. In most cases, this is done over video. However, this option will involve the longest wait time.

The vast majority of Veterans continue to choose VBA lanes for another review after their initial VBA decision and this percentage of Veterans choosing to first appeal to VBA appears to be increasing each year. This is an encouraging sign because that is the fastest way for Veterans to get potential relief after an initial denial of a claim.

Figure 14 below shows that since AMA implementation through the end of FY 2022, the Board has received approximately 208,500 (14%) appeals, compared to 1,257,000 (86%) AMA claims filed by Veterans choosing either the Higher-Level Review or Supplemental Claim options at VBA. Although the number of VBA's AMA appeals in Higher Level Review (HLR) and supplemental claims have increased during the past 4 years, the average number of docketed AMA appeals at the Board have remained fairly constant during this same period (an average of 60-65,000 per year). However, initial projections after passage of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (PACT Act), P.L. 117-168, indicate the raw number of appeals to the Board will likely increase to as many as 78,000 additional AMA appeals in FY 2023 and nearly 86,000 in FY 2024.



Figure

14: AMA Receipts – Claims (VBA) & Appeals (Board)

It is important to note that there are a number of factors that impact how long it will take to get a decision. For example, the Board's commitment has been to complete Direct Review AMA appeals in an average of 365 days and has been meeting that goal. That means some Veterans will get a decision faster than 365 days, maybe substantially faster because the case may have been advanced on the docket due to reasons of serious illness, severe financial hardship, or advanced age. However, other Veterans may wait longer than 365 days. Again, the commitment is to complete cases in an average of 365 days. Figure 15 shows the average number of days it took to complete/adjudicate (ADC) appeals by Veteran review option during FY 2022. Average days pending (ADP) in Figure 15 on page 23 is how long cases, by Veteran review option, were still awaiting adjudication at the end of FY 2022 had been at the Board. Because the ADP for all Direct Review cases still pending on the Board's docket at the end of FY 2022 was 339 days, the Board expects those average days pending will continue to be offset by Direct Review cases adjudicated much faster because they are in AOD status. On the other hand, Veterans choosing additional evidence and hearing review options will continue to experience longer wait times while their records are further developed before a final decision can be made.

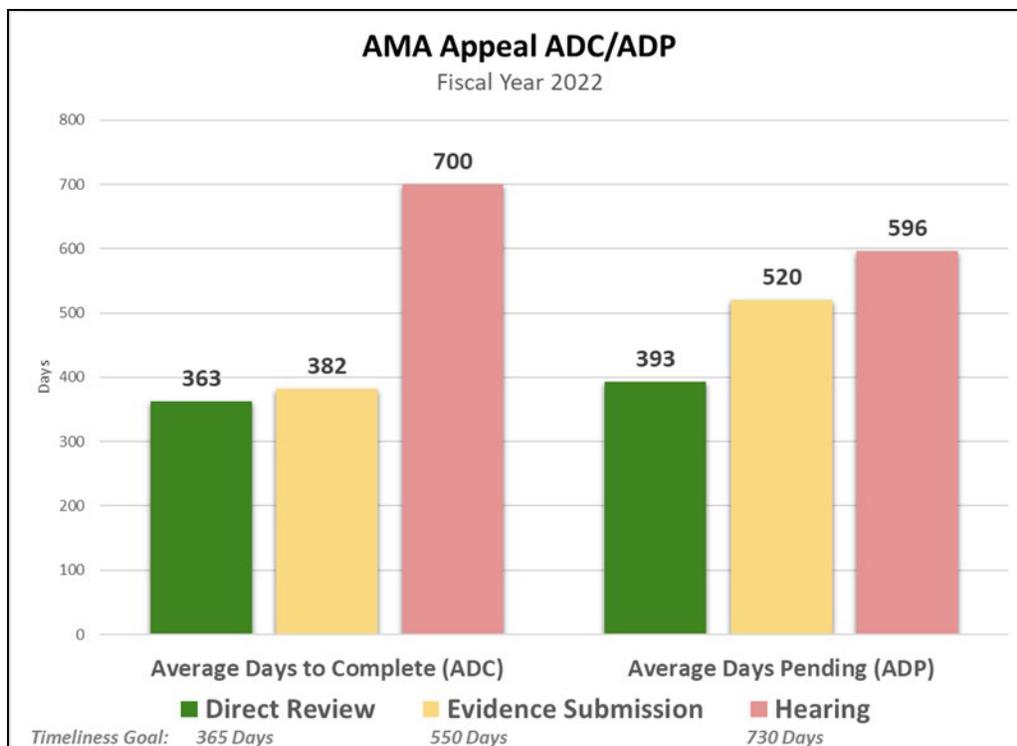


Figure 15. AMA average

days to complete and average days pending at the Board

Improved Access and Outcomes Under the AMA

VA implemented the AMA in February 2019, and, through strong stakeholder engagement, the Board achieved initial operating capability to operate under the AMA appeals system while simultaneously working to resolve/sunset roughly 400,000 pending Legacy system appeals. As detailed further below, post-implementation efforts and further modernization efforts continue to improve Veteran-centric approaches as the Board resolves Legacy appeals and transitions to AMA-only appeals over the next few years. Again, early signs are encouraging and support there are better outcomes for Veterans under AMA and, as shown in Figure 16 on page 24, higher trust among Veterans that the Board of Veterans Appeals will “fulfill our country’s commitment to Veterans and their families.”

In addition to increased choice and control, the AMA has had other benefits for Veterans and appellants as well. Compared to the Legacy system, the percentage of AMA remands has gone down, and the percentage of cases where requested relief is granted is on the rise. This is good news for Veterans and appellants as they are more likely to get a final decision in the AMA system, rather than the frequent remand cycle Veterans experience under the Legacy system, and this has decreased the percentage of cases being sent back by the Board to regional offices for development.

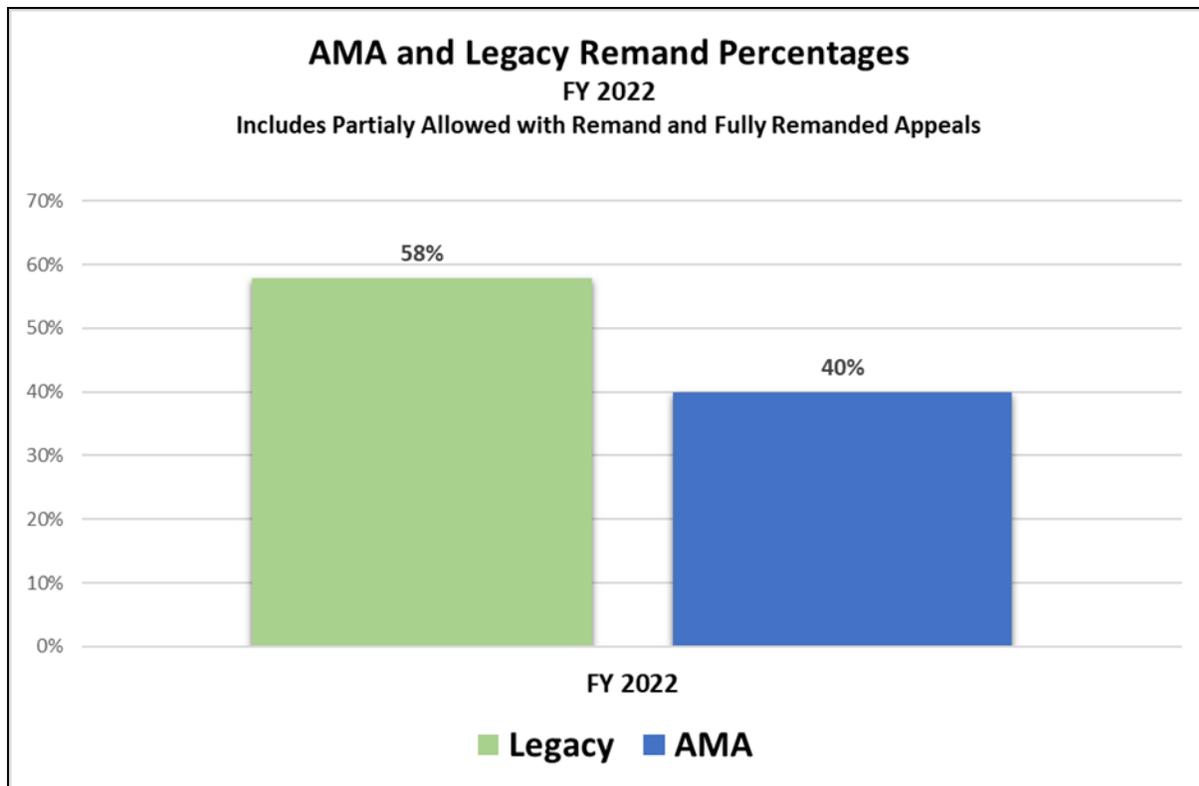
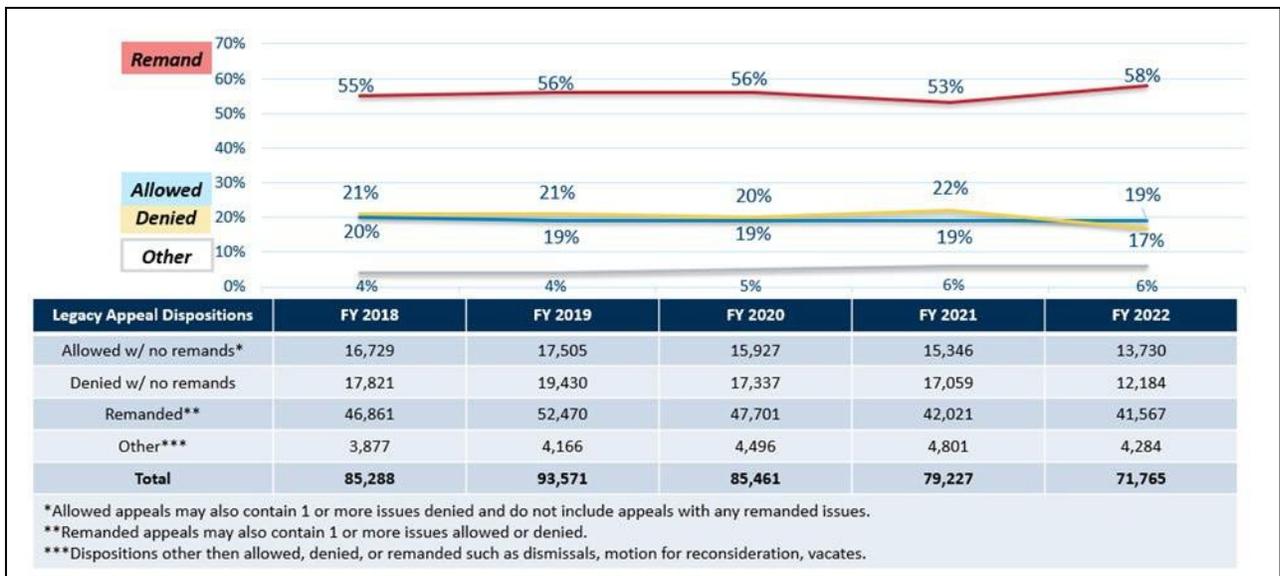


Figure 16:

Remand Percentages AMA and Legacy

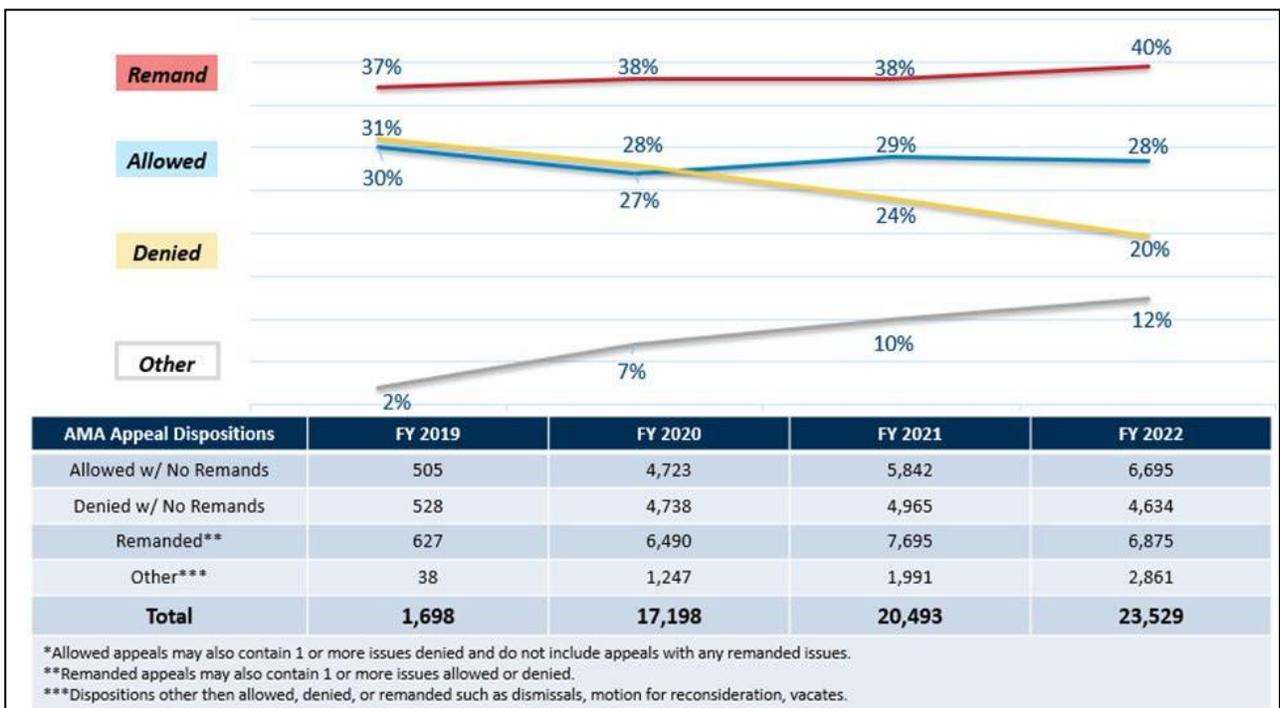
Figures 17 and 18 on page 25 show remand rates are nearly 20% lower under the AMA appeals process compared to the Legacy appeals system. Figures 17 and 18 also show that grant/allowed rates are consistently about 10% higher under the AMA appeals process. Appeals in these figures are counted as remands if any issues had to be remanded, even if there were grants and/or denials as part of the same decision. Appeals are counted as granted or “allowed” when the Veteran received at least some relief and there was no need for any issues to be remanded. The denial rate under both the Legacy appeals system and the AMA appeals system is statistically the same at just under 20%. This means none of the relief sought was granted.

The Board continues to closely monitor and analyze resolution rate trends under both the Legacy system and the AMA during the past 5 years so stakeholders can better compare the 2 systems and overall merits and effectiveness of the AMA system compared to the Legacy system in providing more timely and effective final resolution for Veterans. Figures 17 and 18 on page 25 show that remand rates under the Legacy appeals system have remained relatively stable with 58% of all appeal decisions being remanded while remand rates under the AMA system consistently have been much lower—17 to 19% better than Veterans experience under the Legacy system.



Figure

17: Legacy Appeals Resolution Rates: 5-Yr Trend



Figure

18: AMA Resolution Rates: 5-Yr Trend

Increasing Veteran Trust Scores

The Board collaborates with the Veterans Experience Office (VEO) to administer Veterans Signals (VSignals), a customer experience survey to Veterans who have an active appeal at the Board. These surveys provide valuable insight into Veteran experiences at various stages of the appeals process in both the Legacy and AMA systems. The Board uses the survey data to measure understanding and improve the

hearing experience, as well as revise its letters and decisions to provide better information and clarity to Veterans. Figure 19 below shows that Veteran trust with the Board continues to increase throughout the lifecycle of their appeal at the Board. In late 2020, the Board partnered with VEO to include more Board-specific questions in the survey to improve the accuracy of data, enhance service recovery and improve communications.

The survey data demonstrates that the Veteran experience during the appeal process is generally positive, with overall trust scores rising approximately 12-14 percentage points from the time they first file with the Board until after they receive the Board’s decision. As shown below, Veteran trust in VA’s commitment to them is fairly low when they file their appeals. That is unsurprising considering they are appealing a “no” decision from VA with respect to their claim for benefits and services. However, that score goes up dramatically after a hearing with a Board Veterans Law Judge, which is the first opportunity for many Veterans to hear a first-hand explanation from the judge about why the initial claim was denied and what evidence is needed to support the benefits or services sought.

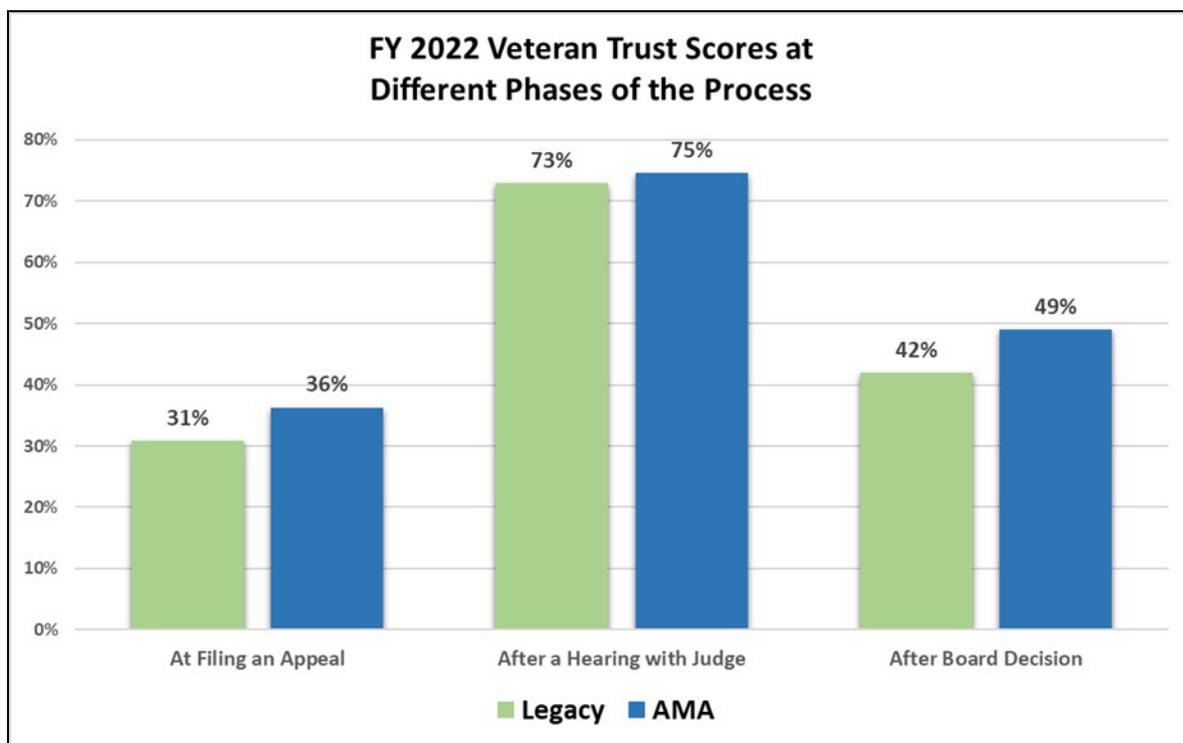


Figure 19:

Veteran Trust Scores

The Board continues to seek input from stakeholders to help inform Veteran and customer-centric organizational and technological improvements through monthly meetings with co-located VSOs and quarterly meetings with the extended VSO and Veteran’s representative community.

It is important to reiterate how Veteran trust scores have been impacted under both the Legacy appeals system and AMA system as shown above in Figure 15 on page 23, especially after a Veteran receives a Board final decision. While only about half of Veterans agree they “trust” the Board after getting their final decisions, that is far higher than the percentage of those same Veterans who received a “grant” on one or more issues in their appeals, which is about a third of Veterans receiving a decision on their appeal. Under both the Legacy and AMA appeal systems, Figure 19 on page 26 demonstrates that Veteran trust scores increase 12-14% from the time they initially file appeal through the time when they receive a decision. The Board attributes this to increased Veteran understanding based on their experiences with Board Veterans Law Judges during hearings and based on the clarity of the Board decisions, especially in explaining why certain issues cannot be granted. Interestingly, Veteran trust scores are higher at each stage of the appeal process under the AMA than Veteran experiences in the Legacy system.

Leveraging Technology and Expertise to Improve the Quality of Communication, Filing, Scheduling and Processing of Appeals

In FY 2022, the Board took specific actions to improve the customer experience – internal and external to the Board – to help enhance the overall Veteran experience with the appeals process at the Board. When Veterans do not receive the full relief they seek through a Board appeal, they deserve a decision that clearly and accurately explains why the evidence falls short and how they can either challenge that decision or potentially qualify with additional evidence. To better ensure this, the Board has been focused on leveraging technologies and further modernizing business processes to better communicate and build trust with Veterans and their representatives.

In FY 2022, the Board collaborated with the Office of Information Technology (OIT) to implement new capabilities and functionality in Caseflow that directly support AMA appeals processing. Contractor changes and budget challenges, to include funding prioritization, unfunded requests and a Continuing Resolution delayed the anticipated pace of implementation. However, the Board continues to partner with OIT and VA to improve the velocity of enhancements moving forward into FY 2023 and to prioritize funding to advocate for the timely implementation of mission-critical functionality and capabilities. Key accomplishments in FY 2022 included:

- The Board monitored and implemented changes to simplify its automatic case distribution system, which supports VA’s Legacy Resolution Plan by ensuring that the longest pending appeals are distributed first.
- The Board and OIT delivered new online functionality that allows Veterans to submit a Notice of Disagreement (NOD) form electronically on VA.gov. The electronic submission of NODs provides a convenient method for Veterans to appeal a decision on their claim for benefits and reduces delays created in the docketing process resulting from missing or unclear information. The Board received 4,793 electronic NODs through this new VA.gov capability in FY 2022.
- Caseflow’s integration with VANotify provides Veterans with real-time status updates for their appeal via email. This functionality increases transparency

around the appeals process and aims to improve Veteran satisfaction with the Board and VA. In September, the Board launched VANotify email notifications which resulted in 3,154 appeal updates in FY 2022.

- New functionality allows VSOs and authorized representatives to convert an in-person hearing or Travel Board hearing into a virtual hearing. This capability provides greater choice and flexibility to Veterans and their representatives by ensuring representatives can proactively convert to a virtual hearing on their own. The new capability supports the Board's efforts to reduce the number of hearings requiring a postponement or rescheduling.
- Caseflow Intake improvements helped capture additional data points around the options available to Veterans via the newly updated VA Notice of Disagreement Form (Form 10182). The data allows for more effective workload routing and prioritization of appeals, including of those appeals filed for Veterans experiencing homelessness, and supports faster hearing scheduling.
- OIT delivered improvements to the Board intake process for appeals with appellants who are not listed in the VBA Corporate Database. This allows the Board to process appeals from all types of appellants.
- The Board can now process docket switch requests from recognized appellants, allowing the appellant to easily move from one docket to another when permitted under the law (for example, Direct Docket to Hearing Docket).
- The Board provided requirements to OIT for Caseflow enhancements to allow the Board to process a new class of appeals under the Program of Comprehensive Assistance for Family Caregivers (PCAFC) pursuant to the U.S. Court of Appeals for Veterans Claims' decision in *Beaudette v. McDonough*, 34 Vet. App. 95 (2021).

The Board continued to improve Interactive Decision Template (IDT) capabilities to ensure written decisions and outgoing correspondence to Veterans are as clear and understandable as possible. The IDT is now used for almost all outgoing correspondence related to Veteran hearings and appeals. This transition standardized template formats, consolidated templates into one location and added configuration control for outgoing letters. All Board letters now follow the same format – headers, font and spacing are all consistent - no matter which Board team created the letter. Changes and updates to a template are quickly accomplished and enabled for all users utilizing that template. These improvements ensured more efficient and consistent processes for drafting and sending correspondence and provided additional auditing capability for standardized letters. The improvements also allowed the Board to comply with Federal requirements to redact Social Security Numbers (SSNs) from outgoing mail. The Board redacted SSNs from outgoing correspondence and added the docket number to docketing and hearing notice letters to assist with easy identification of the pending appeal, while protecting Veterans' personally identifiable information. In addition, the Board teamed with VBA to add new IDT document types in the Veterans Benefits Management System to make it possible for VA staff and authorized representatives to easily differentiate Board correspondence in the eFolder.

To increase productivity and consistency with Board decisions, language “snippets” are continually developed and updated within the IDT by expert teams of judges and attorneys for potential use by other decision drafters to help ensure Board decisions contain the most up-to-date and most easily understandable legal explanations related to various conditions and contentions that frequently arise in appeals before the Board.

FY 2022 – Mission First, People Always

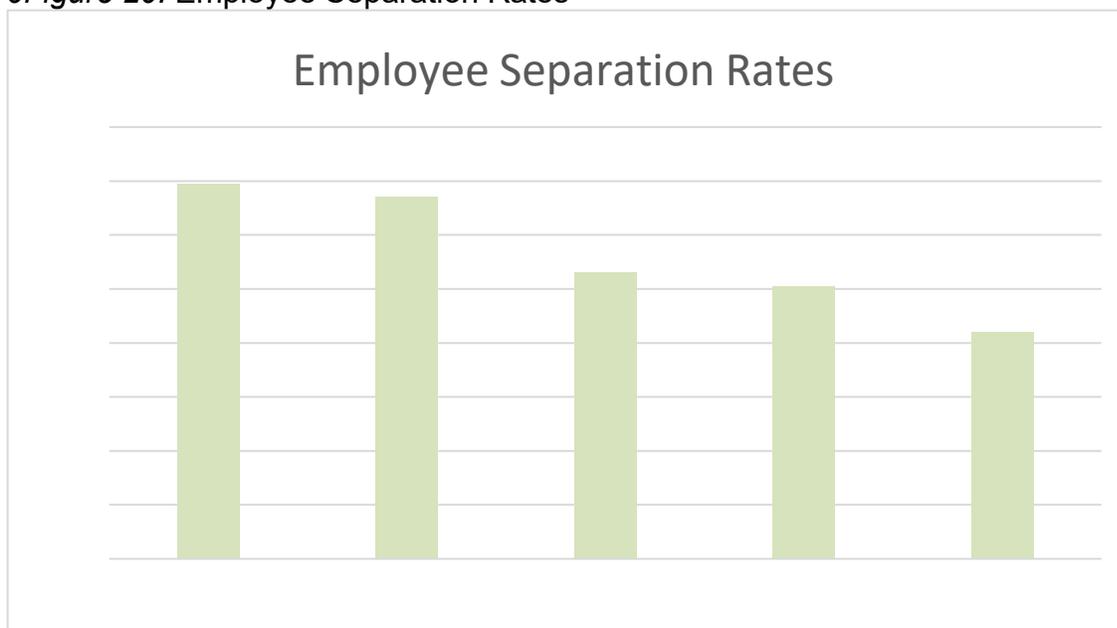
Recruitment and Retention of Board Personnel

In response to the Department’s commitment to resolve Legacy appeals and timely processing under the AMA, including the reduction of Legacy hearing inventory, the Board significantly expanded staffing levels during the past few years. The Board has successfully attracted and hired talented employees to perform its unique and critically important mission of serving Veterans. During FY 2022, the Board pursued and expanded hiring practices, such as recruiting using the military spouse hiring authority and hiring recent law school graduates and training them in the specialized field of Veterans law. These activities have resulted in the onboarding of over 135 new personnel to fill mission-critical positions during FY 2022 and receiving applications from over 1,700 applicants during the first few months of FY 2023.

The Board has grown to just over 1,200 personnel, and we are still growing thanks to continued investment by the Department and Congress. The Board has added VLJs, attorneys and administrative and operational personnel, recruiting and hiring exceptionally diverse talent with unique backgrounds, education, experience and perspectives to better serve the Veterans, family members, caregivers and survivors with appeals pending before the Board.

As the Board increases its staffing, it continues to monitor attrition rate trends. The Board’s annual attrition rate decreased to 8.4% in FY 2022 down from approximately 13.9% in FY 2018 as depicted in Figure 20 on page 30. The Board continues to monitor attrition rates very closely, particularly with increased attrition rates experienced in both private and public sectors after COVID-19. The declining attrition rate can be attributed in part to the Board’s commitment to continuously improving its organizational culture and work climate. The Board’s employment benefits, workplace flexibilities, rapid promotion schedule for attorneys and mission-related work provide powerful incentives to join and remain with the Board of Veterans’ Appeals. This includes a program instituted in FY 2022 to reimburse bar dues and related fee payments by attorneys that are required by their respective State Bar licensing authorities for those attorneys to maintain good standing for actively practicing law. 4 years ago, fewer than a third of Board attorneys were at the GS-14 level and that number nearly doubled to over 60% during FY 2022.

0Figure 20. Employee Separation Rates



The Board’s significant recruiting and hiring initiatives resulted in an increase in the number of VLJs from 106 to 125 by the end of FY 2022. These efforts allowed the Board to maintain a high level of production and perform a record number of hearings throughout the year.

In FY 2022, the Board continued to allow the vast majority of its employees to work remotely or via telework. This decision was based on lessons learned during the pandemic and was responsive to employees’ requests for improved work/life balance, while ensuring ongoing operational success.

The Board’s robust remote/telework policies resulted in stronger recruitment actions and enabled the Board to reduce its workspace as explained below. The Board’s telework and remote programs also improved recruitment and retention of VLJs, encouraged more competitive and diverse applicants to apply for attorney and administrative positions (including Veterans and military spouses), and helped the Board deliver exceptional service to Veterans and other stakeholders. This also facilitated an approximate 45% reduction in the Board’s physical footprint and promoted more agile space management. The Board will continue to offer extensive remote and telework options to support its staff, aid recruitment and retention and reduce costs associated with space. This strategy aims to expand potential recruitment areas, while reducing the Board’s leased office space.

Military Spouse Friendly

The Board is committed to continuing the hiring, development and retention of military spouses who face frequent relocations, which can be highly disruptive to employment. Within the Board’s remote operations, military spouses can easily relocate across 56

states, commonwealths, territories and the District of Columbia. In addition, during FY 2022 the Board implemented a program to reimburse attorneys up to \$300 in bar dues in a single jurisdiction.

Veterans Law Judges (VLJs)

The Board's very successful recruiting campaign to select new judges during FY 2022 yielded more than 600 applicants. Most applicants selected had proven judicial experience, often as judges with more than one agency, and also had a diversity of background, culture, work experiences and perspectives truly reflective of those we serve. For example, the number of Veterans now serving as Board judges tripled during the past 18 months, from 8% of all judges to approximately 24%. As of the end of FY 2022, the Secretary had appointed 18 new VLJs, bringing the total to 125 VLJs onboard, with more slated to join the Board in FY 2023.

VLJs have long served as leaders and mentors at the Board, especially because they already managed daily performance for all decision-drafting attorneys assigned to them by directing their daily taskings and giving formal, written feedback on all work product by numerically grading and providing written comments on the quality of each decision drafted for the judge's signature. In FY 2021, the Board took the additional step of beginning to formalize their role as supervisors, responsible for formal feedback, performance evaluations and fitness for promotion to successive grade levels in the ladder positions occupied by all attorneys. During FY 2022, all VLJs were performing supervisory duties for non-probationary attorneys on their team, to include conducting mid-cycle and end-of-year evaluations as well as making promotion recommendations. After the first full year of implementation in FY 2022, anonymous employee survey scores showed marked increases in scores related to supervision, with highest scores on the ability to speak up when something isn't right and to get explanations of the "how" and "why" behind decisions that impacted attorney work.

In FY 2021, the Board also modified the performance standards by which VLJs are rated to align more closely with the Board and judges' principal missions and duties. Judges are now rated annually on legal acumen, docket and case management, hearing management, organizational teamwork and customer satisfaction and leadership and supervision. These standards tie back directly to the Board's statutory missions of holding hearings and deciding appeals and emphasize the judges' positions as both leaders and statutory, Presidentially approved Members of the Board.

Employee Engagement

The Board is committed to continuously improving its organizational culture and work climate. The Board hired an Ombudsman in FY 2022 to facilitate communication and improve connections across and throughout the organization. The Ombudsman worked with the senior leadership team to strengthen employee engagement through the establishment of an Employee Engagement framework to facilitate the process where employees could propose recommendations for senior leadership to consider. This

included establishing an Employee Engagement Advisory Committee and an Employee Engagement Executive Committee to help provide executive guidance and approval mechanisms to operationalize employee initiatives and suggested improvements. This framework has also streamlined the process for unofficial Employee Associations' events to be easily amplified to increase Board wide awareness and participation. Additionally, a more robust awards program was launched to provide increased opportunity to recognize all employees for their dedicated service to Veterans, celebrate individuals who went above and beyond their normal duties in service of Veterans and acknowledge attorneys' achievements in decision drafting through writing awards.

Board leadership and employees are actively working to improve employee engagement. This year, approximately 72% of Board employees completed the All-Employee Survey (AES). The Board utilized the results of the FY 2022 AES survey to encourage workgroup level conversations to improve employee engagement and identify ways to improve day to day work experience and process. Importantly, the Board has revamped the new employee orientation program, partnering with the Veterans Experience Office VEO to pilot a New Employee Buddy program to help assimilate employees from day one. Additionally, the Board is focused on increased professional skill training opportunities, self-care presentations, and launched an initiative to support first-line leaders' efforts to improve cohesion, mission connection, morale and professional satisfaction.

Throughout the year, Board employees participate in and connect with one another through virtual events, including town halls, coffee breaks, webinars and leadership discussions. The Boards' monthly newsletter has been revised with the goal to provide more dedicated content from the leaders to all employee groups as well as a focused effort to enhance communication through updated content on SharePoint pages across the organization.

New Employee Buddy Program

In partnership with the VEO Employee Experience team, the Board launched the New Employee Buddy (NEB) Program, an initiative that pairs a current employee (Buddy) with each incoming new employee as a guide to the new employees' experiences during their first 3 months at VA. Buddies will be charged with welcoming their new employee matches and will be expected to play an active role in walking them through the onboarding process and orienting them to the Department. Utilizing a human-centered design (HCD) approach, the VEO developed an employee onboarding journey map which carefully examined the pain points VA employees experienced during their onboarding process. The VEO team prioritized the NEB Program as a high-potential solution to address these pain points related to onboarding and improving the overall employee experience during an employee's first 3 months. In VEO's HCD testing, it was found that the first 3 months are critical to establishing a lasting career foundation with VA. Feedback for the program has been centered around new hires expressing how helpful their Buddies have been as they navigate the different programs within VA and the Board as well as how grateful they are to connect with more people in a fully remote work environment. The program has been very effective in easing the transition of new

hires to the Board, especially within the Board's heavy remote and telework workplace posture.

Training

Under the Office of Chief Counsel, the Board's Professional Development Division (PDD) facilitates several training and professional development programming opportunities for all Board employees. PDD's mission is to inform, educate and inspire Board employees to reach their professional goals; create a work environment that challenges and supports the Board's employees; and promotes the efficient accomplishment of organizational goals through training, development and engagement strategies. Current and ongoing training programs administered or facilitated by PDD in conjunction with the Office of Appellate Operations include the new attorney training program (NATP) and the new VLJ training program. They also partner with the Office of Assessment and Improvement (OAI) to provide Board-wide training to address numerous areas to include the AMA, all precedential decisions issued by the Court and the Federal Circuit during the FY, the PACT Act of 2022 and remand trends in Court decisions and JMRs. OAI also issued monthly quality tips and prepared a detailed monthly digest addressing all errors identified in sampled decisions.

NATP is a highly intensive and interactive 20-week program with training in substantive and procedural law in both the Legacy and modernized systems. The program includes multiple levels of feedback and support such as large-group information sessions; cohort (small group) discussion sessions; and evidentiary review and decision drafting. During this program, new attorneys are paired with a training acting VLJ experienced in adjudicating appeals under both the Legacy and modernized systems. By the end of FY 2022, 58 attorneys had either completed or were enrolled in NATP.

New VLJs participate in an intensive three-week program overseen by the Office of Appellate Operations that covers substantive law, judicial procedure, and supervisory and leadership topics. In addition, experienced VLJs provided individual mentoring to each new VLJ for 6 months.

PDD also regularly presents Board-wide trainings on various substantive Veterans' law topics to include total disability due to individual unemployability, cardiovascular claims, section 1151 claims, medical reimbursement claims and various procedural issues to include AMA claims. Other ongoing programming facilitated by PDD includes the Open-Door Hours Program where a network of experienced attorneys make themselves available to field substantive and procedural questions in support of VLJs and attorneys. PDD also facilitates ongoing VLJ training for "specialty" (rare) appeals topics to include a June 2022 training on apportionment claims and an August 2022 training on increased rating eye claims. In addition to legal programming, PDD also facilitated a supervisory training for seven new Supervisory Senior Counsel covering key supervisory topics. PDD's goal is to expand leadership and professional development programming available for all Board employees. PDD is working to achieve this goal by exploring technology and other resources such as e-learning in combination with best practices in adult learning.

The Specialty Case Team (SCT) is a Board-wide program in which attorneys, who are competitively selected for the detail position, are trained and developed to serve as subject matter experts in one or more rare and/or complex legal areas within Veterans law. Specially trained attorneys are critical to ensuring complex cases are handled by experts in the legal nuances of rare or difficult types of cases so that the Board produces the highest quality decisions in the most efficient manner. In FY 2022, SCT attorneys completed approximately 11,400 cases and produced on average nearly 0.5 to 1 signed case more per pay period than non-SCT attorneys. Most significantly, the SCT experts develop model language to guide decision drafting so the next generation of attorneys can more easily adapt when reviewing these more complex cases and procedures that bring greater consistency to the adjudication of procedurally challenging cases.

The Board continues to actively partner with the Veterans' Service Forum, an affinity group at the Board that provides information to staff about military experiences and helps employees keep a "focus on the Veteran." Panel topics and discussions this past year included post-traumatic stress disorder, the breadth of benefits available to Veterans beyond disability compensation and how to conduct deeper claims file reviews for documents and information related to Active Duty for Training versus Inactive Duty for Training.

Diversity and Inclusion at the Board

The Board actively supports a number of operational activities to promote diversity and inclusion in the workplace. These activities help build a diverse, high-performing staff who reflect all segments of society. The Board utilizes existing recruitment tools to prioritize the hiring of Veterans and military spouses, establishes diverse selection and interview panels, provides training related to diversity and inclusion, regularly communicates updates to VA policies on diversity and inclusion to all employees and supports a number of social organizations focused on workplace improvement.

In FY 2022, the Board encouraged diversity of perspective by making senior leaders available to all employees with open door hours each week by all executives. To encourage inclusivity particularly for new employees, the Board implemented the VEO New Employee Buddy Program to connect new employees with volunteer current employees to answer onboarding questions and strengthen the sense of community in the first 90 days of employment. Additionally, the Board hosted information sessions driven by Employee Associations on a variety of topics, for example, working with a chronic disability, careers for caregivers, Juneteenth, and the Equal Rights Amendment. The Board's AES scores related to diversity and inclusion improved on several key measures. Under workplace inclusivity, or diverse perspectives are included in decision making, the overall Board score rose by approximately 0.22 and under authenticity or 'I feel comfortable being myself at work,' the overall Board score rose by 0.08. The reported experience of discrimination in the workplace also remained low at approximately 5%, well below the VA-wide average of 12%.

Savings Through Reduced Lease Costs

Under the new hybrid work environment, the Board has more than adequate physical office space to meet its mission and maintain workforce operations. In FY 2022, as a result of the hybrid work environment and more than 75% of staff leveraging remote work, the Board was able to return an additional 40,543 rentable square feet (RSF). This achieves a 45% reduction in physical space requirements when combined with the 48,278 RSF of leased office space returned in FY 2021. These significant reductions enable greater financial stewardship of taxpayer dollars. The Board will continue to operate under the hybrid work environment and does not anticipate any additional office space needs in support of appeals modernization.

Strategic Plan and Priorities for FYs 2023 and 2024

FY 2022 was a year of continued innovation and change at the Board, as the organization transitioned leadership with the April 2022 nomination and August 2022 confirmation of Chairman Jaime A. Areizaga-Soto, the 11th Chairman of the Board of Veterans' Appeals since it was first created in 1933: Following successive, record-setting years of performance in the number of hearings held and decisions issued by the Board, Chairman Areizaga-Soto undertook a careful review of how to best position Board operations for continued success in the newer modernized system of appeals under AMA. Despite the phenomenal success in drawing down the number of pending Legacy appeals during the previous 5 years, adjudication of original Legacy appeals still pending with the Board has taken longer than most would have expected after the implementation of the newer AMA system of appeals. As noted on page 14 in Figure 8, over 40% of the Board's annual decision output in FY 2022 was re-evaluation of previous remands from cases the Board had previously adjudicated at least once. Thoughtful solutions to this challenge will require enterprise-wide efforts – internal and external to VA – to appropriately identify and address root causes and solutions to address them because root causes extend beyond the Board and VA.

We will need to ask ourselves hard questions about Veteran choice, especially choices about forum and choices about representation. For example, data shows Veterans choosing to remain in the Legacy appeals system are also choosing to be represented by private attorneys and representatives nearly 25% of the time instead of being represented by VSOs. Conversely, for the more than 160,000 Veterans with pending AMA system appeals at the Board, only about 0.5% of those Veterans are currently choosing to be represented by private attorneys and representatives. Because Board grant rates are much higher and remands are much lower under the AMA system than under the Legacy appeals system, this is worthy of further exploration.

Maximizing the Number of Veterans Served

The Board's goals for FY 2023 are to adjudicate over 103,000 appeals for Veterans and resolve the pending queue of Legacy hearings (including Travel Board hearings). The Board intends to meet these goals through continued innovations, increased resources and improving our processes and technology. To match the 31% increase in VLJs hired during the past 18 months, the Board anticipates hiring over 300 new attorneys during FY 2023 (a more than 35% increase) to fully staff each VLJ with decision drafting attorneys focused on increasing the number of issued decisions during the latter part of FY 2023 and into FY 2024.

In FY 2023, the Board will focus on the following: (1) the continued resolution of Legacy appeals, especially original Legacy appeals that have never been addressed by a Veterans Law Judge; (2) root causes related to remands, both from the Court and from the Board; (3) increasing the overall number of appeals decided; (4) achieving timeliness goals set for AMA decisions; (5) refining the Board's Quality Assurance program; and (6) supporting the PACT Act implementation. Below is a breakdown of these priorities and a brief description of the challenges and strategic approaches the Board will take to leverage existing resources toward accomplishing them:

► **Resolving Legacy System Appeals:** Despite the significant 83% reduction in pending Legacy appeals during the past 4 years, there is still a higher-than-expected number of original Legacy appeals pending an initial decision by the Board and the number of pending Legacy appeals across VA remains higher than previously projected. The initial drawdown plan was developed prior to COVID and was shared October 29, 2019. The resolution plan has been updated several times since with each iteration incorporating historical actuals and updated assumptions to include the changing environment, workload projections, Board resources, hiring plans and various other factors that influence outcomes. For example, it was updated in FY 2022 to reflect COVID-related impacts and then updated again for FY 2023 to reflect higher levels of remands by the Board and consistent rates of remand from the Court for further development on cases where the Board denied an appeal.

► **Understanding Root Causes for Remands:** As a Veteran-centric system of appeals, we need enterprise-wide recognition that remands provide Veterans no final answers on their appeals, and this is frustrating for many of them. While many Board hearings end with a plea for a remand if the Board judge cannot grant the appeal, roughly 35% of Veterans receiving a remand decision from the Board report they do not "trust" the appeals system "to fulfill our country's commitment to Veterans and their families." For legacy appeals returned to the Board after remand, 59% of them have been remanded at least twice, 30% have been remanded 3 times or more, 15% have been remanded at least 2 times, and 7% have been remanded 5 times or more. While the overwhelming majority of remands from the Court have instructions for the Board to provide additional "reasons and bases" for its denial decision, the Board and VBA are assembling a tiger team to evaluate root causes and ways to reduce remands from the Board to

VBA. While doing this, the Board is exploring options to enable it to better address original Legacy system appeals still pending that have never been seen by a Board judge because of these remands that continue to have priority.

► **Increasing Appeals Decided:** After focusing VLJ time and attention to holding record numbers of hearings during FY 2021 and FY 2022, the high rate of late cancellations, withdrawals and no-shows for Veterans that had waited years in line for those requested hearings led Chairman Areizaga-Soto to re-prioritize more judge time and resources to focus on reviewing and signing decisions. For FY 2023, he challenged Board judges to decide a new record-high of at least 103,000 decisions and the Board's FY 2024 budget request projects the Board will produce at least 115,000 decisions next year. Because the Board expects to recruit and hire to support a 35% increase in decision-drafting attorneys during FY 2023, the Board is hoping for even higher dividends during FY 2024 as those attorneys become fully trained to support their judges with draft decisions ready for final review and signature.

► **Addressing Pending AMA Appeals:** The Board originally released timeliness goals for its two remaining AMA dockets (Evidence Submission and Hearing) in FY 2021. With long-term targets of 365 average days to complete (ADC) for Direct Review, 550 ADC for Evidence Submission and 730 ADC for Hearing docket appeals, the Board has formally committed to achieve these goals as it transitions to a docket where the AMA system applies to an ever-increasing number of decisions issued each year. For FY 2023, the Board anticipates the overall decision output will remain more heavily weighted toward Legacy system appeals because those have been pending the longest and it has been more difficult than originally expected to fully resolve those older appeals. While average days to adjudicate AMA appeals is expected to increase because of this challenge, the Board expects the average days to drop quickly once Legacy appeals are reduced because of the overall yearly decision output of the Board projected for the next 2 years. For example, the FY 2024 budget request notes the Board expects to decide at least 115,000 decisions.

► **Quality Assurance:** The Board has been collaborating closely with GAO to evaluate areas for continued improvement in the Board's Quality Assurance program. This includes evaluating potential root causes for declining, but continuing, trends related to unnecessary or improper remands under the AMA. The Board is monitoring the outcomes in cases appealed to CAVC and the United States Court of Appeals for the Federal Circuit to identify trends that may help enhance the Board's Quality Assurance program. The Board will continue its collaboration with VA's OGC to provide targeted trainings to VLJs based on trends seen in these court cases.

► **Supporting PACT Act Implementation:** Based on initial claims VBA has identified as PACT Act-related, the Board projects an increase in appeals. The Board is mindful of the fact that many PACT Act-related conditions may be covered in other pending claims and appeals Veterans filed prior to the passage of the PACT Act. Thus, those claims and appeals are not PACT Act-related as eligibility and resolution of those benefits would be independent of the PACT Act presumptions Congress established to be effective on August 10, 2022 or later. To support public trust through transparency, the Board has been exploring both technology and operational solutions that will allow the Board to definitively track how many PACT Act-related appeals are independently filed at the Board and to independently report the outcome of any PACT Act-related appeal adjudicated by the Board. In pursuing these solutions, the Board remains focused on developing joint capabilities that consistently and credibly support the tracking of PACT Act-related cases during the Veterans' journey across all of VA, starting from the initial claims they filed with VBA or VHA until they receive their "final" decision from the Board.

PART II

Statistical Data

Beginning with the FY 2019 Annual Report, the Board’s statistical data includes appeals governed by the AMA, enacted on August 23, 2017, and effective on February 19, 2019. With AMA implementation, the Board receives both Legacy system and AMA appeals and manages those dockets separately, with cases decided in docket order as required by law.

Unless otherwise notated, all data reported is inclusive of all dockets as noted above.

FY 2022 Information as required by 38 U.S.C. § 7101(d)(2):

38 U.S.C. § 7101(d)(2)(A)

Number of Legacy cases formally appealed to the Board (Substantive Appeal (VA Form 9) filed):	507
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Number of AMA cases formally docketed by the Board (VA Form 10182):	70,202
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Number of Legacy appeals certified to the Board:	38,519
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38 U.S.C. § 7101(d)(2)(B)

Cases pending (certified) before the Board at the start of FY 2022:	197,555
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Cases pending (certified) before the Board at the end of FY 2022:	209,535
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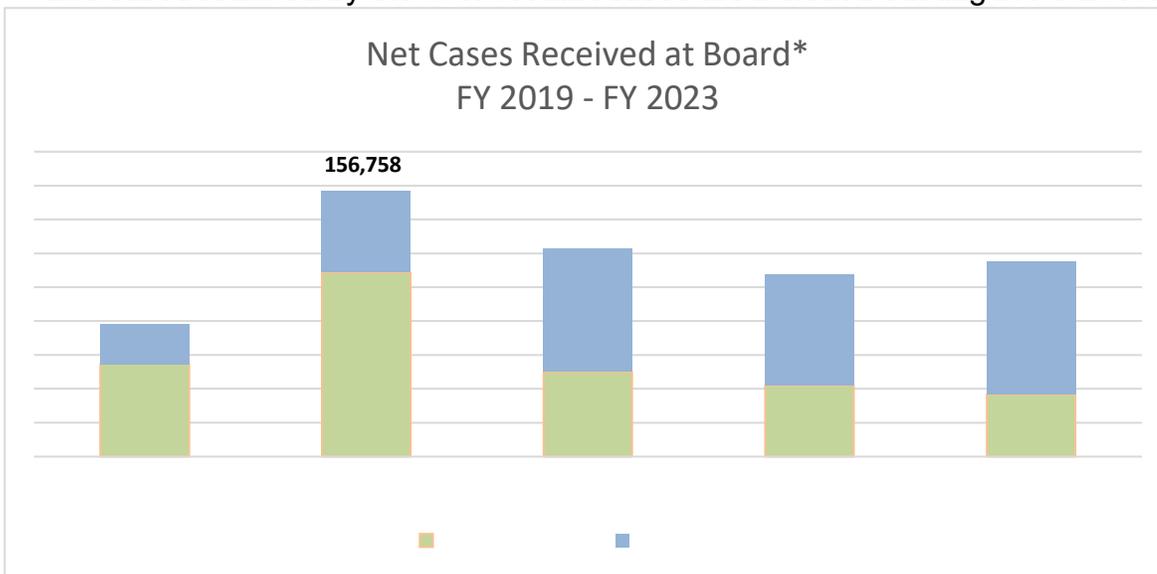
U.S.C. § 7101(d)(2)(C)

Number of Substantive Appeals (VA Form 9) filed at the AOJ and cases received at the Board during FY 2022 and each of the 36 preceding months as depicted in the chart below as follows:

Substantive Legacy Appeals (VA Form 9) Filed*					Cases Received at Board**			
Month	FY 2019	FY 2020	FY 2021	FY 2022	FY 2019	FY 2020	FY 2021	FY 2022
October	3,602	3,575	325	46	4,896	10,762	10,446	8,451
November	3,408	3,314	239	38	3,704	8,407	9,124	8,232
December	3,057	3,710	175	53	4,178	8,327	10,474	7,028
January	3,339	4,520	143	40	1,751	7,439	12,022	7,568
February	2,669	4,499	117	44	1,581	4,819	13,143	6,764
March	2,693	5,837	121	59	5,510	8,316	14,778	9,765
April	2,665	5,294	99	40	7,762	13,075	9,562	7,444
May	2,748	4,049	38	54	7,557	31,956	7,288	9,708
June	2,888	1,988	43	51	6,804	22,224	9,727	10,209
July	3,413	547	63	26	9,247	12,770	8,624	10,417
August	3,440	439	53	34	12,313	13,093	8,305	11,673
September	2,140	309	34	22	13,041	15,570	9,050	10,015
FY Total	36,062	38,081	1,450	507	78,344	156,758	122,543	107,274

* The data is based on when the Form 9 was filed.

** Case receipts include original appeals, post-Board Legacy remands, non-VBA receipts and cases returned by the CAVC. AMA cases are included starting in FY 2019.



* Net case receipts include original appeals, remands, non-VBA receipts, cases returned by the CAVC, AMA.

The AMA was intended to offer Veterans greater choice in their appeal options by offering either a Higher-Level Review or Supplemental Claim option at VBA or appeal directly to the Board. Since AMA implementation through the end of FY 2022, approximately 30% of Veterans have contested their original claims decisions, of which, 86% have chosen to file a notice of disagreement at VBA for a quicker resolution and 14% have that choose to file an appeal to the Board.

38 U.S.C. § 7101(d)(2)(D)

Legacy Appeals

For Legacy appeals decided in FY 2022, the average length of time between the filing of an appeal (that is, Substantive Appeal (VA Form 9)) at the AOJ and the Board’s disposition of the appeal was approximately 1,989 days a decrease of 26 days from FY 2021. This total includes decisions in all types of claims (original, supplemental, post remand, reconsideration, vacates, de novo, court remand, and so forth). This average accounts for the original VA Form 9 date for all decisions regardless of the number of times the appeal was remanded to the AOJ for additional evidentiary requirements. As the percentage of original appeals pending in the inventory declines, leaving a majority of remanded appeals, it is possible that the average processing time could increase in the future.

The chart below provides a snapshot of the average processing time within the multi-step Legacy appeals process. For example, the average time between when Legacy certified appeal was docketed at the Board to disposition was approximately 439 days in FY 2022. Note that the figures below cannot be aggregated, as some of the steps include only the time associated with original appeals.

Legacy Appeals Time Interval	Responsible Party	Average Elapsed Processing Time	
Notice of Disagreement Receipt to Statement of the Case*	VBA**	501 days	AOJ
Statement of the Case Issuance to Substantive Appeal (VA Form 9) Receipt*	Appellant	39 days	
Substantive Appeal (VA Form 9) Receipt to Certification of Appeal*	VBA**	217 days	
From Board Receipt of Certified Appeal to Board Docketing of Appeal*	Board	304 days	Board
Docketing of Certified Appeal to Issuance of Board Decision	Board	439 days	
Average Remand Time Factor	VBA**	319 days	AOJ

* These figures include original appeals only.

** The clear majority of appeals considered by the Board involve claims for disability compensation, and VBA is the responsible party when these appeals are located at the

AOJ. However, appeals may also originate with VHA, NCA or OGC.

AMA Appeals

For AMA appeals by type of review options Veterans chose, the average days to complete those appeals from Notice of Disagreement are included in the table below.

	Direct Review	Evidence	Hearing	Responsible Party
Average Days to Complete AMA Decision from Notice of Disagreement	363	382	700	Board

As the Board continues resolution of Legacy appeals in the Department, a gradual increase in resources available to adjudicate AMA appeals is anticipated. As the Board is able to adjudicate a higher proportion and number of AMA appeals, this will likely result in completing those AMA appeals that have been pending the longest and increase the average days to complete appeals to levels that exceed the prescribed timeliness goals. This trend will likely continue until resource levels and annual decision output exceeds the number of new appeals and inventory levels are reduced.

38 U.S.C. § 7101(d)(2)(E)

The number of members of the Board at the end of FY 2022*: **126**

The number of professional, administrative, clerical and other personnel employed by the Board in terms of FTE at the end of FY 2022: **1,059**
(not including 126 members above)

*Numbers include VLJs on-board, DVCs, Chairman, Vice Chairman and Chief Counsel, and of these, **28** are Veterans.

38 U.S.C. § 7101(d)(2)(F)

Number of acting members of the Board during FY 2022: **221**

Number of cases in which acting members participated*: **14,522**

38 U.S.C. § 7101(d)(2)(G) – Virtual Hearings

Number of hearings scheduled under such section 7107 (c)(2)(C): 52,942

Number of hearings canceled or withdrawn under such section 7107 (c)(2)(C): 9,251

Statistical difference in outcomes between cases heard under section 7107(c)(2)(C) (virtual tele-hearings) and those held at the principal location of the Board (central office) or by picture and voice transmission at a facility of the Department (video tele-conference):

Difference in Case Disposition Outcomes for Cases Upon Which a Hearing Had Been Held*					
Hearing Venue	Allowed	Denied	Remand	Other	Total Cases
Central Office	34%	18%	18%	4%	1,979
Regional Office	26%	29%	39%	6%	11,182
Virtual Tele-Hearing	22%	18%	58%	2%	18,185
* 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.					

38 U.S.C. § 7101(c)(2)

The Number of acting members of the Board in terms of FTE employees: **20.7***

* For this report, the number of cases in which acting members participated is defined as the number of dispositions issued by the designated acting members for FY 2022.

Derived from the number of days worked by acting members throughout the year (5,186 days) divided by the number of working days in the year (250).

According to 38 U.S.C. § 7101(c)(1), the Chairman of the Board of Veterans’ Appeals has the authority to designate employees of the Department as acting members of the Board. This includes attorneys who may be designated as Acting Veterans Law Judges (AVLJ) to sign decisions when needed. It is in the discretion of the Chairman to designate such employees, based on the needs of the organization. Acting members of the Board may serve no more than 270 days per year (no more than 90 days at a time) and may not exceed 20% of the total number of Board members and acting Board members combined. Additionally, as the Board continues to implement AMA, the Chairman will assess the Board’s needs and adjust the number of AVLJs accordingly.

PACT Act

The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act (PACT) of 2022 (P.L. 117-168) was signed into law August 10th, 2022. The new law expands VA health care and benefits for Veterans exposed to burn pits and other toxic substances. This law is designed to help provide generations of Veterans, and their survivors, with the care and benefits they’ve earned and deserve. Estimates on the number of new appeals filed by Veterans in disagreement of their

initial claims decisions continue to be updated. In anticipation of the increased rise in appeals in FY 2024, the VA submitted to Congress a request on September 10th for initial toxic exposure funding. The Board received \$10.3M in 3-year funds, primarily to begin hiring and training efforts in anticipation of increased future demand.

Projections for FY 2023 and FY 2024

The Board continued to prioritize resources to address pending Legacy appeals and AMA inventories in FY 2022 and issued 95,294 decisions for Veterans, which was within approximately 99.9% of the goal of 95,373 decisions. For the fourth consecutive year, the Board has achieved over 95,000 decisions and has issued a goal of deciding over 103,000 in FY 2023 as it continues to strive to meet Veteran expectations on timeliness. The Board expects that inventory will continue to grow in FY 2023 and FY 2024, despite inventory specific to PCAFC decisions coming in lower than predicted.

The Board completed FY 2022 with 209,535 appeals pending adjudication, of which 62,711 were Legacy and 146,824 were AMA appeals. The Board has collaborated with VBA and VHA to determine projected claims and subsequent appeals rates in FY 2023 and FY 2024. Based on recent estimates, the Board could receive as many as 115,000 appeals (Legacy and AMA) in FY 2023 and 123,000 in FY 2024. These figures include Legacy appeals, receipts arising from Veterans right to appeal adverse VHA Program of Comprehensive Assistance for Family Caregivers (PCAFC, Caregiver) determinations to the Board (*Beaudette v. McDonough*, No. 20-4961), as well appeals filed as a result of PACT Act. Caregiver and PACT Act appeal estimates continue to be monitored as they are both new workloads and will continue to be revised and updated as necessary.

With a high number of Legacy appeal decisions that continue to be remanded to the area of original jurisdiction (AOJ) for additional case development (such as missing exams and documentation), it is projected the Board will continue to receive future Legacy appeals returned for final decision beyond FY 2024. Almost 58% of Board decisions in FY 2022 required a remand to the AOJ for additional development. Estimates from VBA show the Board could receive approximately 37,000 Legacy cases in each of FY 2023 and FY 2024.

38 U.S.C. § 7101(d)(3)(A)

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

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

FY 2023:	Cases appealed to the Board:	36,958 - Legacy 78,203 - AMA
FY 2024:	Cases appealed to the Board:	37,501 - Legacy 85,562 - AMA

Note: Legacy appeal receipts are contingent upon the rate of certification and transfer of cases by VBA and other AOJs to the Board, as well as Veteran preference for AMA appeals. Legacy appeal total also includes remanded cases that are recertified back to the Board for decision.

Projections include a variety of factors and assumptions that could affect forecasts. The variable assumptions involved in forecasting include refile rate, Board remand rate and production. Any trends identified in these assumptions that lead to changes in the model can affect what is currently being forecasted.

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” for appeals. By considering 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 (Legacy and AMA) and those that have been certified for Board review.

The following categories are calculated as follows:

$$\frac{\text{FY 2022 decisions (95,294) (divided by)}}{249 \text{ workdays}} = 382.7 \text{ decisions per workday}$$

$$\begin{aligned} &\text{Cases pending end of FY 2022 (209,535)} \\ &+ \text{New cases expected in FY 2023 (115,161)} \end{aligned} = 324,696 \text{ total workload in FY 2023}$$

$$\frac{\text{Total workload (324,696) (divided by)}}{\text{Decisions per workday (382.7)}} = 848 \text{ work days}$$

$$\frac{\text{Workload days (848) (divided by)}}{250 \text{ workdays per year}} = 3.4 \text{ years}$$

$$\text{Workload years (3.4) x 12 (months)} = 41 \text{ months}^*$$

* 41 months represents the amount of time it would take the Board to decide all appeals (Legacy, AMA) in its projected FY 2023 working inventory (current inventory plus projected receipts in FY 2024).

VA Operations Board Measures

VA implemented the VA Operations Board (VAOB) measures in FY 2019. The VAOB is VA’s executive level governance group responsible for tracking performance measures at the operational level and to discuss high-visibility issues, assess program progress,

resolve performance problems, and assist leadership in focusing on top priorities and problems within the context of performance, budget, and workload results. The following chart represents the Board's performance for VAOB measures in FY 2023, with the exception of its quality assurance discussed in Section 1.

Board of Veterans' Appeals Veterans Affairs Operations Board Productivity Measure – FY 2022						
Month	Hearings Held	Appeals Decided	Average Days to Complete from Notice of Disagreement			Board's Trust Score
			Direct Docket	Hearing	Evidence	
Oct	3,038	6,373	317	376	642	48%
Nov	2,972	6,588	312	333	643	47%
Dec	2,015	7,508	333	344	691	50%
Jan	2,944	6,713	358	332	703	47%
Feb	2,649	7,938	364	344	673	52%
Mar	2,428	10,131	361	373	678	50%
Apr	2,583	8,208	360	381	705	49%
May	2,624	8,391	388	409	724	49%
Jun	2,593	8,217	403	435	715	51%
Jul	2,393	7,730	405	415	965	48%
Aug	2,116	9,011	356	394	704	49%
Sep	1,734	8,486	364	420	744	48%
Total	30,089	95,294	363	382	700	49%

FY 2022 AMA Statistics

	Direct Review	Evidence Submission	Hearing	Total
AMA Net Case Receipts	27,621	12,432	25,275	65,328
Pending Inventory of AMA Cases (at end of FY 2022)	44,179	28,586	74,059	146,824
AMA Decisions Dispatched	10,291	3,664	9,574	23,529
Average Days to Complete AMA Decision (from Notice of Disagreement)	363	382	700	503
Number of AMA Issues Decided				
Allowed	5,212	3,663	7,286	15,032
Denied	1,378	3,222	7,960	16,620
Remanded	7,956	3,062	5,442	19,039
Other	1,966	962	4,203	7,131

ADDITIONAL INFORMATION

Congressional Tracking Reports

Consolidated Appropriations Act, 2023 (P.L. 117-328)

Case Subject: 2023 CTR - Scheduling Backlog

Case Owner Name: OM - 041

Description: Scheduling Backlog - The agreement directs the Department to submit a

report to the Committees within 90 days of enactment of this Act on the length of time it takes to schedule appeals and the Board's planned steps to improve efficiency.

In sum, the average days to schedule and complete adjudication of appeals under both the Legacy system and the AMA system are detailed in tables and information above under Part II – Statistical Data. Also, details regarding the average days pending and average days to complete AMA appeals at the Board is set out on pages 21-22 and Figure 15 on page 23 of this annual report. In addition, the Board's planned steps to improve efficiency are detailed on pages 34-37 in Part I of this annual report, under the section titled, "Strategic Plan and Priorities for FYs 2023 and 2024."

As the resolution of Legacy appeals has continued, coupled with the changing environment in which Veterans have seen increased access to benefits through new statute and court decisions (such as the PACT Act and the *Beaudette* decision), VA has seen the number of Veteran claims for benefits reach historic levels, leading the Board to continue to prioritize hiring staff in order to keep pace with a corresponding increase in Veteran appeals. The Board's enacted FY 2023 appropriation is a substantial increase in investment from Congress and will enable the Board to hire additional personnel in support of the Board's goal to decide over 103,000 appeals in during FY 2023. In recent years, and as projected, operating in two systems of appeals (Legacy and AMA) has resulted in an increase of pending AMA appeals while drawing down the Legacy system appeals still pending. However, as the drawdown of Legacy appeals nears, the Board's docket prioritization, which is set in law, will distribute an ever-increasing number of AMA appeals to Veterans Law Judges for adjudication. The Board is currently projecting approximately 78,000 to 85,000 AMA appeal receipts per year with future growth expected from the PACT Act. AMA appeals up to now have been lower than originally projected. While new statute or court decisions could potentially impact the number of future appeals, the Board continues to build capacity to meet expected demands.

Consolidated Appropriations Act, 2023 (P.L. 117-328)

Case Subject: 2023 CTR - Evaluating Execution of the Appeals Modernization Act

Case Owner Name: OM - 041

Description: Evaluating Execution of the Appeals Modernization Act – The agreement directs the Department to provide a report to the Committees within 90 days of enactment of this Act on: (1) its analysis of why more Veterans choose to skip a quicker review by VBA; (2) its plan to educate Veterans on quicker options available to them under the AMA; (3) a summary of recurring issues before the Board; and (4) its plan to improve training of VBA employees to reduce the frequency of recurring issues before the Board. Detailed reporting on these first three matters is included on pages 19-28 of this annual report, including accompanying analysis and summary of issues impacting Veteran choice and experience under the AMA. Number 4 is addressed on pages 34-37 in Part I of this annual report, under the section titled, "Strategic Plan and Priorities for FYs 2023 and 2024." In addition, here is a brief summation:

- 1) The AMA was intended to offer Veterans greater choice in their appeal options by offering either a Higher-Level Review or Supplemental Claim option at VBA, or appeal directly to the Board. The vast majority of Veterans continue to choose VBA lanes for another review after their initial VBA decision and this percentage of Veterans choosing to first appeal to VBA appears to be increasing each year. This is an encouraging sign because that is the fastest way for Veterans to get potential relief after an initial denial of a claim. Since AMA implementation through the end of FY 2022, approximately 30% of Veterans have contested their original claims decisions, of which, an overwhelming majority (approximately 86%) have chosen to file a supplemental claim or request for higher-level review at VBA for a quicker resolution and about 14% have chosen to file an appeal to the Board. Although the number of VBA's AMA appeals in HLR and supplemental claims have increased during the past 4 years, the average number of docketed AMA appeals at the Board have remained fairly constant during this same period (an average of 60-65,000 per year).
- 2) VA (VBA and the Board) has done extensive VSO outreach and published materials on its website where stakeholders and Veterans can review information on AMA and the options they have for choosing which review lane is best for them. Locations include:
 - a. Decision Review Options: <https://www.va.gov/resources/choosing-a-decision-review-option/>
 - b. Factsheets: <https://benefits.va.gov/BENEFITS/factsheets/appeals/Appeals-FactSheet-print.pdf>
 - c. Board Decision Wait Times: <https://www.bva.va.gov/decision-wait-times.asp>
- 3) As reported earlier in PART I of this annual report, under the section titled, "Quality Assurance," approximately 8% to 9% of the Board's decisions are appealed to the CAVC. The Board tracks and analyzes the cases remanded by the Court. Annual reports show the Court reverses very few Board decisions for being "clearly erroneous." More often, Court clerks and VA Office of General Counsel attorneys agree to jointly remand select issues from appealed cases back to the Board so the Board judge can further explain the reasons and bases supporting the judge's denial. This is not legal error, but rather, the parties attempt to ensure the rationale supporting the Board's decision is more fully articulated to the Veteran and their counsel. At least 80% of the appeals returned to the Board from the CAVC are "Clerk" dispositions and have not been considered by a Court Judge. Most Court judge decisions are also remanded to the Board to provide additional "reasons and bases" to support why the Board denied the appeal. In FY 2022, the Board received approximately 6,005 JMRs from the CAVC.

Many Board hearings end with a plea for a remand if the evidence does not support a grant of the appeal. As noted in Figure 6 on page 11, the Board issued

remands in 23,540 cases in FY 2022, approximately 25% of the total decisions for further evidence based on VA's duty to assist. For legacy appeals returned to the Board after remand, 59% of them have been remanded at least twice, 30% have been remanded 3 times or more, 15% have been remanded at least 4 times, and 7% have been remanded 5 times or more.

- 4) As noted above on page 35 of this annual report, the Board and VBA are assembling a tiger team to evaluate root causes and ways to reduce remands from the Board to VBA. The Board is also exploring options to enable it to better address pending original Legacy system appeals that have never been seen by a Board judge because of these remands that continue to have priority.

Number of Legacy Notices of Disagreement Received in the Field				
Month	FY 2019	FY 2020	FY 2021	FY 2022
October	18,781	2,613	24	3
November	16,778	1,989	22	4
December	13,533	1,387	14	26
January	13,067	1,183	5	87
February	12,884	392	4	142
March	14,414	58	3	216
April	13,378	49	3	266
May	10,473	54	4	188
June	6,065	33	5	93
July	6,729	54	3	13
August	6,218	25	2	5
September	4,323	17	2	2
FY Total	136,643	7,854	91	1,045

Legacy Dispositions by Representation FY 2022										
REPRESENTATION	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent of Total
Agent	569	34.6%	683	41.5%	291	17.7%	102	6.2%	1,645	2.3%
American Legion	3,690	32.5%	5,224	46.0%	1,845	16.3%	594	5.2%	11,353	15.8%
AMVETS	92	31.4%	122	41.6%	62	21.2%	17	5.8%	293	0.4%
Attorney	7,080	42.1%	6,473	38.5%	2,075	12.3%	1,182	7.0%	16,810	23.4%
Disabled American Veterans	4,276	31.3%	6,154	45.0%	2,552	18.7%	700	5.1%	13,682	19.1%
Military Order of the Purple Heart	5	35.7%	2	14.3%	4	28.6%	3	21.4%	14	0.0%
No Representation	1,751	29.2%	2,426	40.5%	1,369	22.8%	448	7.5%	5,994	8.4%
Other	375	35.7%	426	40.6%	182	17.3%	67	6.4%	1,050	1.5%

Paralyzed Veterans of America	52	30.6%	64	37.6%	31	18.2%	23	13.5%	170	0.2%
State Service Organizations	4,384	34.0%	5,482	42.5%	2,349	18.2%	694	5.4%	12,909	18.0%
Veterans of Foreign Wars	2,216	33.4%	2,830	42.7%	1,231	18.6%	351	5.3%	6,628	9.2%
Vietnam Veterans of America	292	34.0%	354	41.3%	130	15.2%	82	9.6%	858	1.2%
Wounded Warrior Project	117	32.6%	158	44.0%	63	17.5%	21	5.8%	359	0.5%
GRAND TOTAL	24,899	34.7%	30,398	42.4%	12,184	17.0%	4,284	6.0%	71,765	100.0%

Legacy Dispositions by VA Program FY 2022

REPRESENTATION	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent of Total
BVA Original Jurisdiction	10	15.2%	2	3.0%	17	25.8%	37	56.1%	66	0.1%
Compensation	24,437	34.9%	29,816	42.6%	11,634	16.6%	4,033	5.8%	69,920	97.4%
Education	34	20.5%	39	23.5%	79	47.6%	14	8.4%	166	0.2%
Fiduciary	0	0.0%	0	0.0%	2	50.0%	2	50.0%	4	0.0%
Insurance	0	0.0%	4	66.7%	2	33.3%	0	0.0%	6	0.0%
Loan Guaranty	5	21.7%	9	34.8%	9	39.1%	1	4.3%	23	0.0%
Medical	131	33.9%	100	25.8%	78	20.2%	78	20.2%	387	0.5%
Multiple Program Areas	218	38.5%	237	41.9%	81	14.3%	30	5.3%	566	0.8%
NCA Burial Benefits	1	16.7%	0	0.0%	4	66.7%	1	16.7%	6	0.0%
Other Program	10	18.2%	21	38.2%	17	30.9%	7	12.7%	55	0.1%
Pension	39	9.4%	124	30.0%	190	46.0%	60	14.5%	413	0.6%
Unspecified Program Area	1	5.0%	8	40.0%	4	20.0%	7	35.0%	20	0.0%
VBA Burial Benefits	2	5.0%	6	15.0%	29	72.5%	3	7.5%	40	0.1%
VR&E	11	12.0%	32	34.8%	38	41.3%	11	12.0%	92	0.1%
GRAND TOTAL	24,899	34.7%	30,398	42.4%	12,184	17.0%	4,284	6.0%	71,764	100.0%

AMA Dispositions by VA Program FY 2022

REPRESENTATION	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent of Total
Compensation	8,850	40.8%	6,207	28.6%	4,191	19.3%	2,447	11.3%	21,695	92.2%
Education	19	20.4%	22	23.7%	37	39.8%	15	16.1%	93	0.4%
Fiduciary	4	16.7%	7	29.2%	2	8.3%	11	45.8%	24	0.1%
Insurance	0	0.0%	2	28.6%	4	57.1%	1	14.3%	7	0.0%
Loan Guaranty	2	40.0%	1	20.0%	1	20.0%	1	20.0%	5	0.0%
Multiple Program Areas	31	42.5%	22	30.1%	16	21.9%	4	5.5%	73	0.3%
NCA Burial Benefits	3	16.7%	2	11.1%	10	55.6%	3	16.7%	18	0.1%
Pension	212	25.5%	242	29.1%	296	35.6%	82	9.9%	832	3.5%
VR&E	2	7.4%	8	29.6%	10	37.0%	7	25.9%	27	0.1%
VHA	36	4.8%	362	47.9%	67	8.9%	290	38.4%	755	3.2%

GRAND TOTAL	9,159	38.9%	6,875	29.2%	4,634	19.7%	2,861	12.2%	23,529	100.0%
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Legacy Decisions*					
Fiscal Year	Decisions	Allowed	Remanded	Denied	Other
2019	93,571	35.8%	39.0%	20.8%	4.5%
2020	85,461	33.8%	40.6%	20.3%	5.3%
2021	79,227	32.0%	40.4%	21.5%	6.1%
2022	71,765	34.7%	42.3%	17.0%	6.0%
AMA Decisions*					
Fiscal Year	Decisions	Allowed	Remanded	Denied	Other
2019	1,518	40.2%	26.1%	31.3%	2.4%
2020	17,202	37.0%	28.2%	27.6%	7.2%
2021	20,494	38.1%	27.9%	24.2%	9.7%
2022	23,529	38.9%	29.2%	19.7%	12.2%

* 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 (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. In other words, if only one issue is allowed and all others are not, it still is reported in the “allowed” category because the Veteran got at least some relief.

* Recently published trends in Board grants/allowances, remands, and denials of appealed issues under both the AMA and Legacy systems show consistently higher grant rates and lower remand rates under the AMA system, with denial rates being statistically the same. As explained in Figures 17 and 18 of this report, those trends are comparing cases where the Veteran received at least some relief with no remanded issues, no relief with all issues denied, or appeals where any portion of the appeal remained unresolved and had to be remanded, even if there were also issues either granted or denied. That is why the figures differ from the statistics in this historical hierarchy methodology table above.

Legacy Decisions: Revised Decision Hierarchy

The Board has historically used a hierarchy to report Legacy appeals decided that identified the disposition of an appeal as either an allowance, remand, denial or “other” (that is, a dismissal), based on that hierarchy. This method of reporting did not capture every appeal containing a remanded issue, because those Legacy appeals with one or more allowed issue and one or more remanded issue would be counted as an allowance, rather than a remand. The revised method shown below is more precise. One of the reasons statutory reform of the VA appeals process was necessary was due to the continuation of appeals in the system. The open record, ongoing duty to assist, and governing case law often results in appeals being remanded from the Board to the AOJ several times and over the course of many years.

Legacy Decisions - Revised Hierarchy							
Fiscal Year	Decisions	Allowed	Allowed (no remanded issue)	Allowed (with at least one remanded issue)	Remanded	Denied	Other
2022	71,765	24,899	13,730	11,169	30,398	12,184	4,284
Percent	100%	34.70%	19.13%	15.56%	42.36%	16.98%	5.97%

Legacy Issues – Decided						
Fiscal Year	Legacy Issues Decided	Allowed (not new & material)	Allowed (new & material)	Remanded	Denied	Other
2022	209,097	35,513	7,935	97,679	50,670	17,300
Percent	100%	17.0%	3.8%	46.7%	24.2%	8.3%

In FY 2022, the Board dispatched 71,765 Legacy appeals. Of those Legacy appeals, 13,730 were allowances with no remanded issues, 13,730 were denials and 4,284 were “other” dispositions, such as dismissals, for a total of 30,198 Legacy appeals decided with no remanded issues. There were 41,567 Legacy appeals decided with at least one remanded issue (11,169 allowances with at least one remanded issue + 30,398 remands). The number of Legacy appeals with at least one remanded issue (41,567), divided by the total number of appeals decided (71,765), results in approximately 58% of cases being remanded to the agency of original jurisdiction.

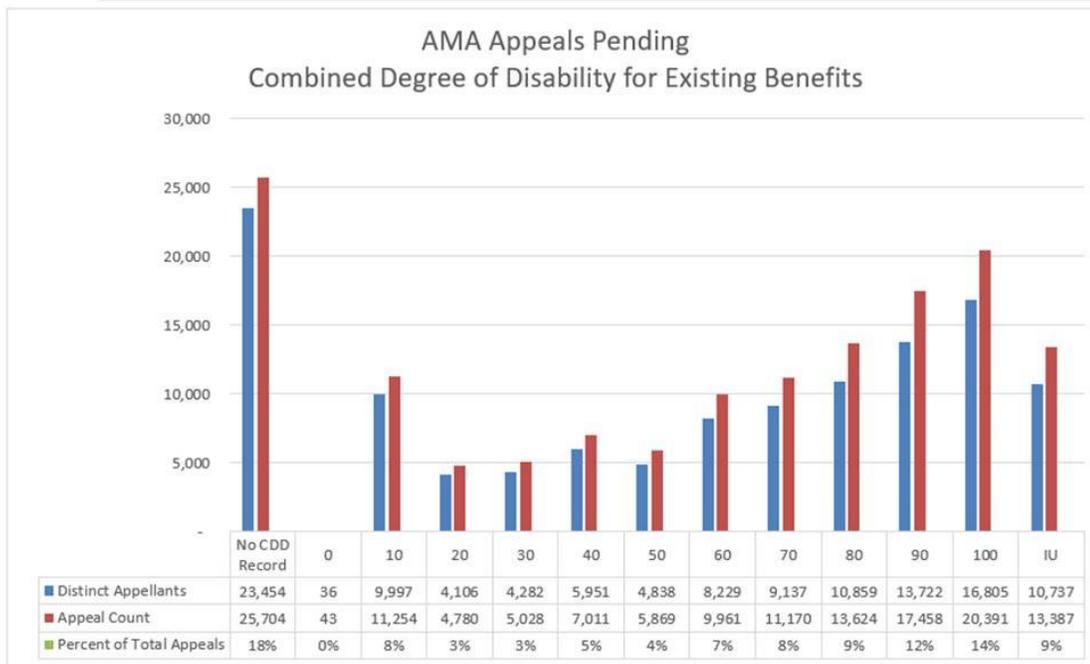
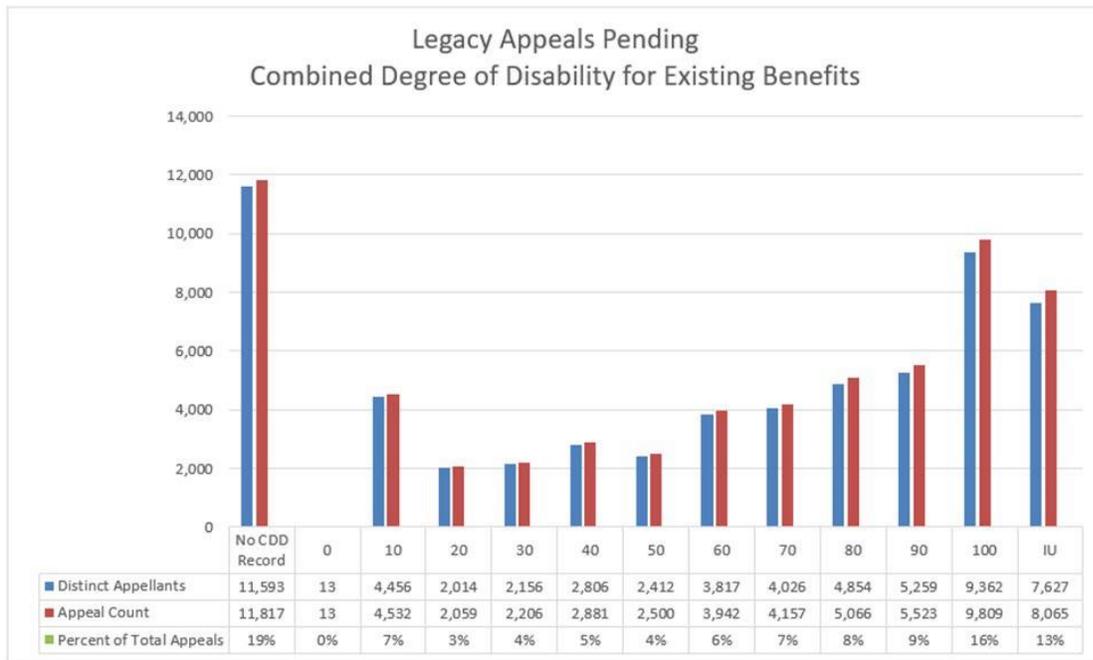
Combined Degree of Disability for Existing Benefits*

Veterans may receive disability compensation ratings ranging from non-compensable (0%) to 100%. This information in the graph on page 53 reflects, at the end of FY 2022, the combined disability rating for Veterans with appeals pending. As of September 30, 2022, the Board’s inventory of Legacy appeals contained 60,395 total distinct appellants and 62,570 appeals. For AMA appeals, the Board’s inventory contained 122,153 total distinct appellants and 145,680 appeals.

This inventory of appeals only counts certified appeals in advanced status, Board active appeals, and remands returned not activated. It does not include action types such as motions for reconsideration, vacates, or Board clear and unmistakable error motions.

Below is a breakdown of these two figures by combined degree of disability for Legacy and AMA appeals.

*Note: Nearly 60% of the returned Legacy remands pending at the Board have been remanded by the Board to the agency of original jurisdiction two or more times.



* Board of Veterans' Appeals pending inventory as of September 30, 2022. Inventory includes appeals that are: certified in advance status; activated at the Board; and remands returned to the Board.

Board Operating Statistics				
	FY 2019	FY 2020	FY 2021	FY 2022
Decisions*	95,089	102,663	99,721	95,294
Legacy cases formally appealed to the Board (Substantive Appeal (VA Form 9 filed))	36,062	38,081	1,450	507
Net Cases Received at Board/Certified to the Board**	78,344	156,758	122,543	107,274
Cases Pending***	120,638	174,733	197,555	209,535
Legacy Hearings Held	22,495	13,686	18,354	20,418
AMA Hearings Held	248	1,983	5,423	9,671
Total Hearings Held	22,743	15,669	23,777	30,089
Decisions per FTE	88.26	88.75	84.37	80.62
Board FTE	1,077	1,157	1,182	1,182
Board Cycle Time (Legacy decisions)****	440	333	297	439
Cost per Case	\$1,747	\$1,817	\$2,025	\$2,311
<p>* Decisions includes Legacy and AMA cases starting in FY 2019. ** Case receipts include original appeals, remands, CAVC, non-VBA receipts and AMA appeals. *** Pending figures include Legacy appeals certified to the Board and docketed AMA appeals. **** The Board's cycle time measures the average time from the date an appeal is certified (VA Form 8) to the Board until a decision is dispatched and excludes the time the case is with a VSO representative for the review and preparation of a written argument.</p>				

STATUTORY REQUIREMENTS

38 U.S.C. § 7101(d)(2)(A): the number of cases appealed to the Board during that year
507 - Number of cases formally appealed to the Board (substantive Appeal (VA Form 9) filed)
70,202 - Number of AMA cases formally docketed by the Board (VA Form 10182)
38,519 - Number of Legacy appeals certified to the Board
38 U.S.C. § 7101(d)(2)(B): the number of cases pending before the Board at the beginning and at the end of that year
197,555 - Cases pending (certified) before the Board at the start of FY 2022
209,535 - Cases pending (certified) before the Board at the end of FY 2022
38 U.S.C. § 7101(d)(2)(C): the number of such cases which were filed during each of the 36 months preceding the current fiscal year
Substantive Appeals (VA Form 9) Filed in FY 2020 through FY 2022*: FY 2020: 38,081 FY 2021: 1,450 FY 2022: 507 * The data is based on when the Form 9 was filed.
Cases Received at the Board during FY 2020 through FY 2022** FY 2020: 156,758 FY 2021: 122,543 FY 2022: 107,274 **Case receipts include original appeals, remands, non-VBA receipts and cases returned by the CAVC. Starting in FY 2019, AMA cases were included in the number of case receipts.
38 U.S.C. § 7101(d)(2)(D): the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the preceding fiscal year
Legacy Appeals: 1,989 days AMA Appeals: Direct Docket: 363 days Evidence Docket: 382 days Hearing Docket: 700 days
38 U.S.C. § 7101(d)(2)(E): the number of members of the Board at the end of the year and the number of professional, administrative, clerical, stenographic and other personnel employed by the Board at the end of the preceding fiscal year
Members of the Board at the end of FY 2022: 126 The number of professional, administrative, clerical and other personnel employed by the Board in terms of FTEs at the end of FY 2022: 1,059
38 U.S.C. § 7101(d)(2)(F): the number of employees of the Department designated under subsection (c)(1) to serve as acting members of the Board during that year and the number of cases in which each such member participated during that year
Number of acting members of the Board during FY 2022: 221 Number of cases in which acting member participated: 14,522

38 U.S.C. § 7101(d)(2)(G): with respect to hearing scheduled under section 7107(c)(2)(C) of this title (i) the number of hearings scheduled under such section; (ii) the number of hearings under such section that were cancelled; and (iii) any statistical difference in outcomes between cases heard under such section and those held at the principal location of the Board or by picture and voice transmission at a facility of the Department

Number of hearings scheduled: 36,066

Number of hearings that were cancelled: 9,162

Statistical difference in outcomes between cases heard under this section vs other methods:

Case Disposition Outcomes for Cases Upon Which a Hearing Had Been Held*					
Hearing Venue	Allowed	Denied	Remand	Other	Total Cases
Central Office	34%	18%	18%	4%	1,979
Video Tele-Conference	26%	29%	39%	6%	11,182
Virtual	22%	18%	58%	2%	18,185

* 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.

38 U.S.C. § 7101(d)(3)(A): an estimate of the number of cases to be appealed to the Board

Estimated number of cases that will be appealed/returned to the Board:

	<u>FY 2023</u>	<u>FY 2024</u>
Legacy:	36,892	39,433
AMA:	78,203	85,562

38 U.S.C. § 7101(c)(2): In terms of full-time employee equivalents, the number of acting members of the Board

Number of acting members of the Board in terms of FTE employees: 20.7 FTE

* According to 38 U.S.C. § 7101(c)(1), the Chairman of the Board of Veterans’ Appeals has the authority to designate employees of the Department as acting members of the Board. This includes attorneys who may be designated as AVLJ to sign decisions when needed. It is in the discretion of the Chairman to designate such employees, based on the needs of the organization. Acting members of the Board may serve no more than 270 days per year (no more than 90 days at a time) and may not exceed 20% of the total number of Board members and acting Board members combined. Additionally, as the Board continues to implement AMA, the Chairman will assess the Board’s needs and adjust the number of AVLJs accordingly.

** For this report, the number of cases in which acting members participated is defined as the number of dispositions issued by the designated acting members for FY 2022.

*** Derived from the number of days worked by acting members throughout the year

(5,186 days) divided by the number of working days in the year (250).

38 U.S.C. § 7101(d)(3)(B): an evaluation of the ability of the Board (based on existing and projected personnel levels) to ensure timely disposition of such appeals as required by section 7101(a) of this title [38 USCS § 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 considering 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.

The following categories are calculated as follows:

FY 2022 decisions (95,294) (divided by)
249 work days = **382.7 decisions per work day**

Cases pending end of FY 2022 (209,535)
+ New cases expected in FY 2023 (115,161) = **324,696 total workload in FY 2023**

Total workload (324,696) (divided by)
Decisions per work day (382.7) = **848 work days**

Workload days (848) (divided by)
250 work days = **3.4 years**

Workload years (3.4) x 12 (months) = **41 months******

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

** For this report, the number of cases in which acting members participated is defined as the number of dispositions issued by the designated acting members for FY 2022.

*** Appeal receipts are contingent upon the rate of certification and transfer of cases by VBA and other AOJs to the Board, as well as Veteran preference for AMA appeals. With AMA implementation effective February 14, 2019, appeals case receipts projections include both Legacy and AMA appeals. Projections include variety of factors and assumptions that could affect forecasts. Variable assumptions involved in forecasting include the refile rate, Board remand rate and production. Any trends identified in these assumptions that lead to changes in the model can affect what is currently being forecasted.

**** 41 months represents the amount of time it would take the Board to decide all appeals (Legacy and AMA) in its projected FY 2023 working inventory (current inventory plus projected receipts in FY 2023).