



Department of Veterans Affairs (VA)

Board of Veterans' Appeals

**Annual Report
Fiscal Year (FY) 2023**

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Board Senior Leadership
(as of the end of FY 2023)

Chairman

Jaime A. Areizaga-Soto

Vice Chairman

Kenneth A. Arnold

Deputy Vice Chairmen

Christopher A. Santoro

Tamia Gordon Robert C. Scharnberger Thomas M. Rodrigues

Acting Chief Counsel

John Jones

Executive Director

Nina Tann

Veterans Law Judges

| | | |
|------------------------|--------------------|-----------------------|
| Adler, Steven | Hachey, Donnie | Parker, Jeffrey |
| Ames, Dorilyn | Haddock, Kristin | Peters, Martin B. |
| Auer, Marjorie | Hager, Jonathan | Picton, Cory |
| Bardin, Jimmy L. | Harris, Leetra J. | Poulson, Rebecca N. |
| Barnard, Lisa | Heneks, Stacey | Raymond, Teresa |
| Bisignani, Rachel | Herman, Michael | Rein, Lesley |
| Blackwelder, Matthew | Howell, Linda Anne | Reiss, Steven |
| Bland, Ardie | Hutcheson, John | Reynolds, Tara |
| Brant, Jenna | Hwa, Jennifer | Riggs, William |
| Brenningmeyer, David | Hyland, Marti | Roberts, Harvey |
| Bruce, Cynthia | Ishizawar, Amy | Robertson, David H. |
| Buck, Bethany | Jaeger, Anne | Scire, Anthony |
| Burton, Paulette Vance | Johnson, Dana | Seesel, Holly |
| Bush, Sonnet | Jones, John | Seppanen, Christopher |
| Caracciolo, Angeline | Kane, Michelle | Simpson, Alexandra |
| Casey, Paul | Keane, Stephen | Skaltsounis, Michael |
| Casey, Theophilos | Kennerly, Karen | Skow, Cynthia |
| Caylor, Marissa | Kessel, Ryan | Slabbekorn, Ray |
| Chiappetta, Vincent | Kilcoyne, Michael | Smart, Devon |
| Chu, Lana | Kirby, Jennifer | Smith, Martina Mills |
| Clementi, Vito | B. Thomas Knope | Smith, Tanya |
| Collins, Laura | Kordich, Kelli | Sorathia, Sadia |
| Connor, Kelly | Kramer, Jonathan | Sorisio, Mary |
| Cothrel, Tim | Krembs, Simone | Sorisio, Paul |
| Crawford, Cherry | Lane, Michael | Spector, Amanda |

Crowley, John
 Cryan, Lauren
 Daknis, Wendy
 Dawson, Tiffany
 Deichert, Evan
 DiLorenzo, Paula
 Doan, Nathaniel
 Donnelly, William
 Donohue, Michael
 Doolittle, John
 English, Thomas L.
 Feinberg, Rebecca
 Fleming, Caroline
 Freeman, Josh
 Fulton, Marcus
 Gallun, Eric
 Glaser-Allen, Colleen M.
 Graham, Caryn
 Gratz, David
 Gunn, Kristi

Larkin, Mary Ellen
 Leboff, Eric
 Mackenzie, Andrew
 Mainelli, Anthony
 Mann, Melanie J.
 Marcus, Shereen
 Martin, Michael
 Mays, Simone
 McCarron Paula B.
 Minami, Ann
 Mincey, Danette
 Mitchell, Martin
 Moshiaswili, Victoria
 Mullins, Bobby
 Neill, Steven
 Nichols, Jane
 Norman, John
 O'Shay, Thomas
 Pappas, Michael
 Parakkal, Kalpana

Speranza, Shaun
 Stepanick, Laura
 Strommen, Gayle
 Tamlyn, Emily
 Tenner, Matthew
 Velez, Estela
 Walker, Helena
 Ware, Dustin
 Wasik, Glenn
 Watson, Bryan
 Wesner, Tracie
 White, Jennifer
 White, Yvette R.
 Whitehead, DeYvonne
 Wight, David
 Wilson, Michele-Ann
 Yasui, Lynne
 Zadora, Kristy
 Zissimos, Jessica



Background

The Board of Veterans' Appeals (Board) is the component of the Department of Veterans Affairs (VA) responsible for making 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 high-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. § 511(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)).

Introduction

The Board celebrated its 90th anniversary in July 2023. The year was also historic because of the stellar achievements in supporting Veterans. Those achievements include the following:

- The Board adjudicated and dispatched an all-time high number of 103,245 appeals in FY 2023, an 8.3% increase over the 95,294 appeals dispatched in FY 2022.
- The overall number of pending appeals at the Board was reduced from 209,535 to 208,155. This is the first time in 4 years that there is not an increase in the pending inventory of appeals.
- The number of original Legacy appeals pending was reduced from 40,994 to 15,618, a 62% reduction during FY 2023.
- The percentage of AMA appeals decided monthly increased from 25% in October 2022 to 42% in September 2023.
- The Board's overall quality assurance rate improved for the 3rd consecutive year, increasing from 95% in FY 2022 to 96% in FY 2023 for the Legacy system and from 92% in FY 2022 to 94% in FY 2023 for the AMA.
- The number of pending hearings was reduced for the 2nd consecutive year to 72,465 at the end of FY 2023.

- The number of pending Legacy hearings was reduced by over 85%, down to just 1,054 remaining at the end of FY 2023.
- The number of Veterans Law Judges (VLJ) is 134, a 12.6% increase this year.
- The current Board of VLJs is the largest and most diverse in the history of the Board, including 57% women and 24% Veterans.
- The number of Board employees increased to 1,374 personnel on-board by the end of the FY, a 12.3% increase during FY 2023.
- The number of decision writing attorneys increased to 983, a 16% increase over FY 2022.
- The attrition rate for Board attorneys decreased for the 4th consecutive year, from 13.4% in FY 2019 to 7.4% in FY 2023.

These achievements have placed the Board on course to further increase the number of appeals decisions issued, further reduce the overall inventory, clear original Legacy cases, and to focus on and meet the timeliness goals of the AMA.

The Board is committed to the Department's core values of Integrity, **C**ommitment, **A**dvocacy, **R**espect, and **E**xcellence (**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 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 2023 and projected activities for FY 2024 and FY 2025; and
- **Part II:** Provides statistical information related to the Board's activities during FY 2023 and projected activities for FY 2024 and 2025.

PART I

The Board of Veterans' Appeals

Mission

The Board was established by President Franklin Delano Roosevelt through Executive Order 6230, issued on July 28, 1933. 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 2023

The Board is comprised of a Chairman, Vice Chairman, and such number of 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 VA (38 U.S.C. § 7101A(a)(1)).

During FY 2023, the Board continued most operations in a virtual environment, 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. As shown in Figure 1 on page 8, the Board’s organizational structure in FY 2023 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.

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.

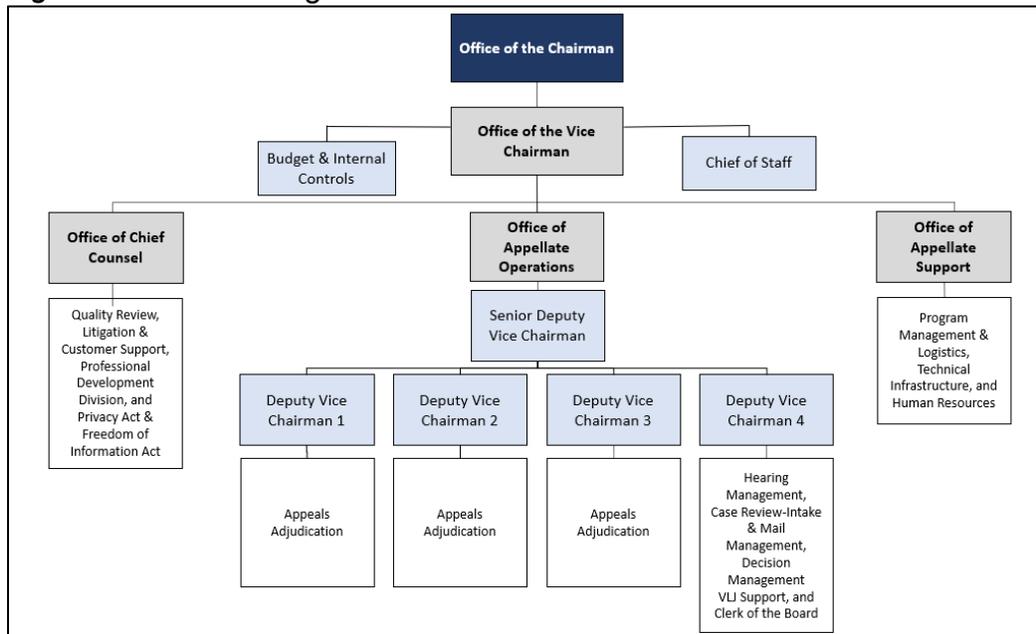
The Vice Chairman oversees the Office of Appellate Operations, the Office of Chief Counsel, the Office of Appellate Support, the Chief of Staff, the Office of the Clerk of the Board (currently led by the Senior Deputy Vice Chairman until a new SES position can be established), and the Office of Budget 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 3 DVCs manage the appeals adjudication work accomplished by 134 VLJs and 983 attorneys supporting those judges at the end of FY 2023.

The Board’s Chief Counsel, a position currently filled in an acting capacity by a dual-hatted VLJ, 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 Office, and Office of Records Management.

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

Figure 1. FY 2023 Organizational Structure

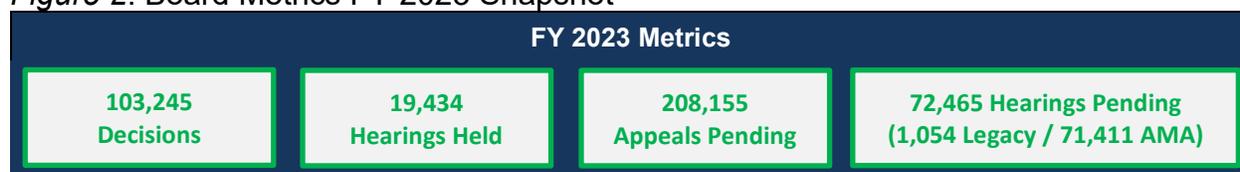


The Board will continue in FY 2024 to review and refine assignments on the organizational chart as additional staff onboard.

FY 2023–Serving Veterans, their Families and Survivors

The Board’s mission success, as noted in Figure 2 on page 9, is often simplified into the number of appellate decisions issued and the number of hearings held during a FY, and the number of appeals that remain pending at the end of the FY. However, as will be explained throughout this report, mission success is much more complex than that.

Figure 2. Board Metrics FY 2023 Snapshot

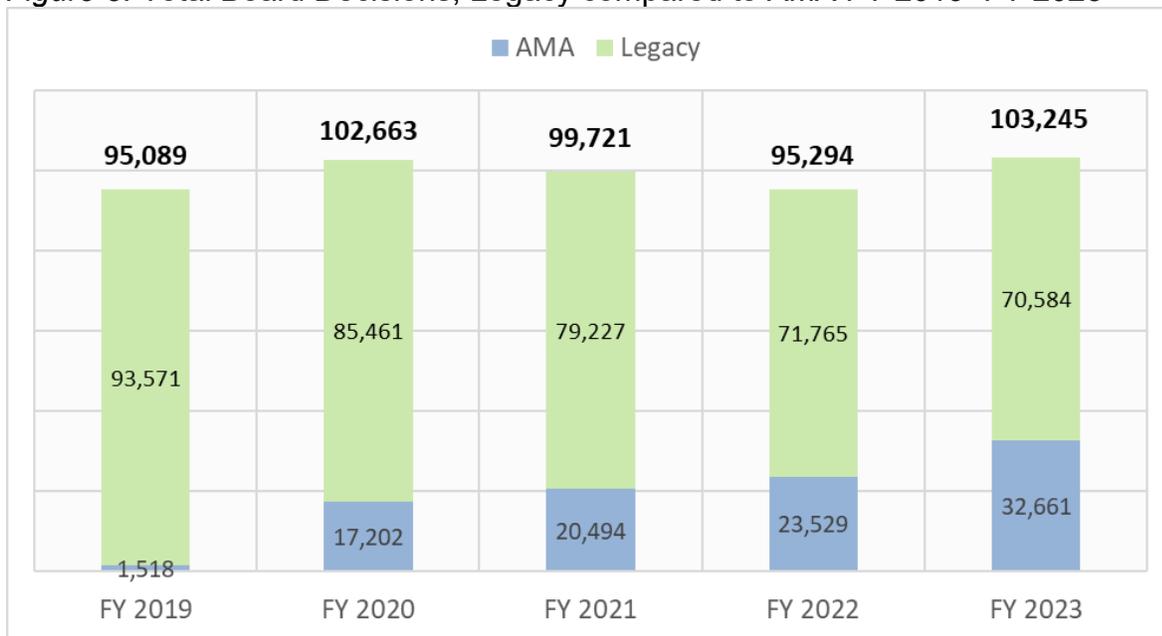


During FY 2023, the Board intentionally focused on issuing appeals decisions while still holding 19,434 hearings. The Board adjudicated and dispatched a record 103,245 appeals in FY 2023, an 8.3% increase over the 95,294 appeals dispatched in FY 2022. Last year was the 5th consecutive year in which the Board issued more than 95,000 decisions. At the same time, the Board reduced the number of pending hearings last year by 2.6% from 74,411 at the beginning of FY 2023 to 72,465 still pending at the end of FY 2023. While this may appear to be a modest decrease, it is the second year in a row that the Board has been able to reduce the pending hearing inventory. This contributed to an 85% decrease in pending legacy appeal system hearings during FY 2023 from 7,150 to just over 1,050. However, the Board's focus on the Veteran experience during the appeals process has produced more impressive results, as shown through a sharp rise in Veteran trust scores from the time they initially file their appeal to receipt of a Board decision, and especially high scores based on their personal experiences with VLJs during hearings. This occurred while the Board continued to significantly reduce the number of pending Legacy system appeals and work an ever-increasing number of newer AMA appeals which have shown consistently 20% lower remand rates and a steady grant rate 10% higher than Legacy system appeals.

Decisions

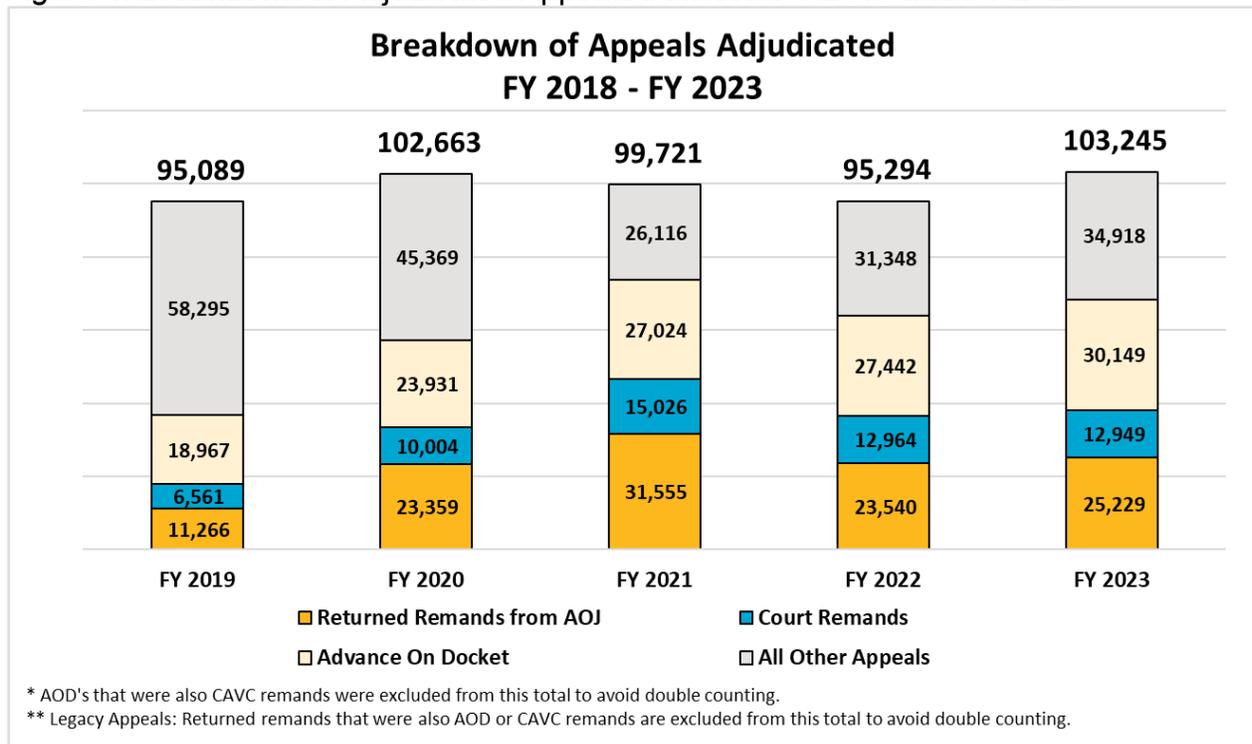
As noted above, the number of decisions issued per year is part of a simplified metric for Board mission success. In FY 2023, the Board intentionally focused on issuing appeals decisions and dispatched a historical record 103,245 decisions for Veterans and their families. This is the 5th consecutive year that the Board has issued over 95,000 decisions, with a total of 496,012 decisions issued since FY 2019. 70,584 (68%) of the Board's decisions issued in FY 2023 were Legacy system appeals and 32,661 (nearly 32%) were newer AMA appeals. Board leadership constantly monitors the Board's finite resources to determine the appropriate balance between holding hearings and issuing decisions for Veterans. Figure 3 on page 10 illustrates the 5-year trend in appeals adjudicated by the Board. The transition from Legacy to AMA is clearly identified through the Board's increased AMA workload.

Figure 3. Total Board Decisions, Legacy compared to AMA FY 2019–FY 2023



By law, the Board must generally decide appeals in the order they are docketed (initially filed) with the Board, with some exceptions. Those exceptions include cases advanced on the docket (AOD) and cases remanded back to the Board by the United States Court of Appeals for Veterans Claims (Court). Additionally, Legacy appeals that have been returned to the Board from the agency of original jurisdiction (AOJ) (for example, Veterans Benefits Administration, Veterans Health Administration) following remand maintain their original place in docket order. The Board applies the relevant statutes and regulations to guide its determinations on motions for AOD to ensure that those appellants most in need of an expedited decision receive priority processing. As shown in Figure 4 on page 11, cases with AOD status comprised approximately 29% of the Board’s FY 2023 decision output. Another 13% were Court remands, and 24% of the Board’s workload were remands returned from the AOJ. The remaining 34% of the Board’s FY 2023 output represents appeals for Veterans patiently waiting in line, including the remaining pending original Legacy appeals.

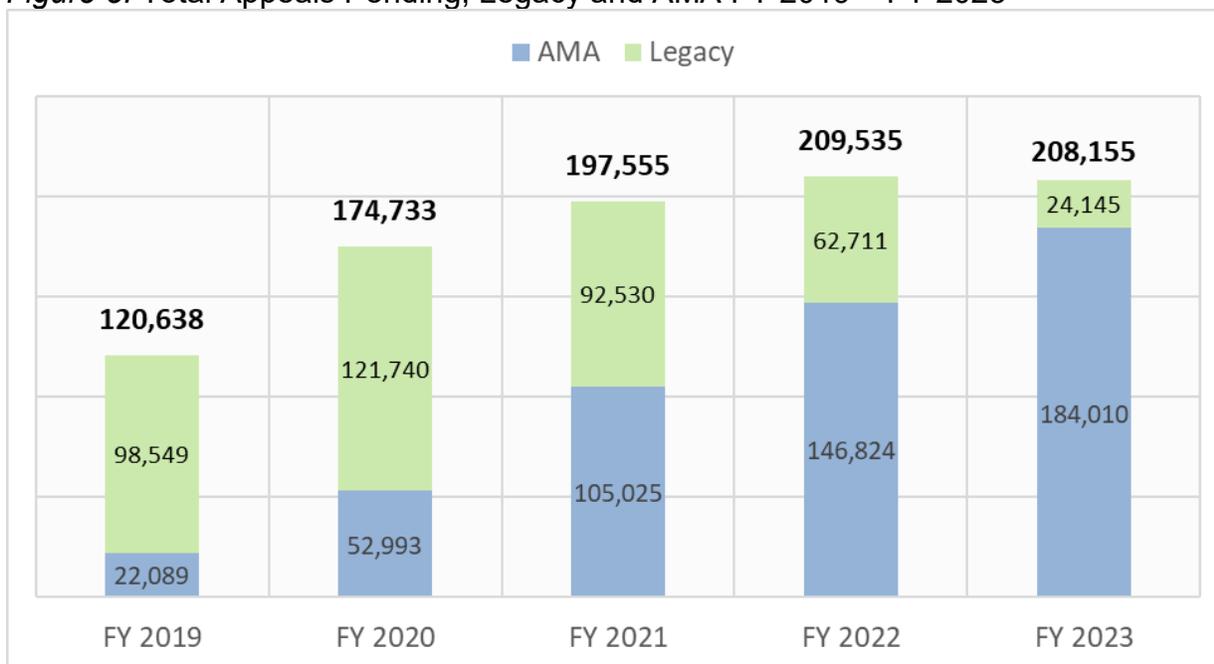
Figure 4. Breakdown of Adjudicated Appeals between FY 2019 and FY 2023



These trends raise several concerns. The Board started FY 2023 with 40,994 pending original Legacy appeals—appeals that have never been addressed by a VLJ. Yet nearly 70% of all Legacy appeals adjudicated in FY 2023 were either AOD, Court remands, or post-remand appeals recertified to the Board by the AOJ. While the Board was able to decrease the inventory of pending original Legacy appeals by nearly 62% in FY 2023 to 15,618, rework and priority cases are clearly impacting the pace of the Legacy appeals drawdown and specifically the pending original Legacy appeals.

Next, with rare exception, the Court remands noted above consist mostly of Legacy appeal system cases and many have been remanded multiple times, usually with no change in outcomes for a Veteran. At present, only about 20% of the average of 8-9,000 appeals filed with the Court each year are reviewed by Court judges. The remaining 80% are set aside and returned to the Board by order of the Clerk per agreement of the parties for the Board to further adjudicate the appeal. While it is true that most of the Court’s judge decisions were also remands to the Board to provide additional “reasons and bases” to support why the Board denied the appeal, when the Court judge dispositions are based on the merits, the dispositions overwhelmingly uphold Board decisions at a rate of at least 95% affirmed to less than 5% reversed. Finally, the rework and priority appeals have also delayed VLJs from evaluating even higher numbers of more recently filed AMA system appeals. Figure 5 on page 12 depicts the total number of appeals pending at the Board from FY 2019 to FY 2023 and indicates which legal system (Legacy or AMA) they are in.

Figure 5. Total Appeals Pending, Legacy and AMA FY 2019 – FY 2023

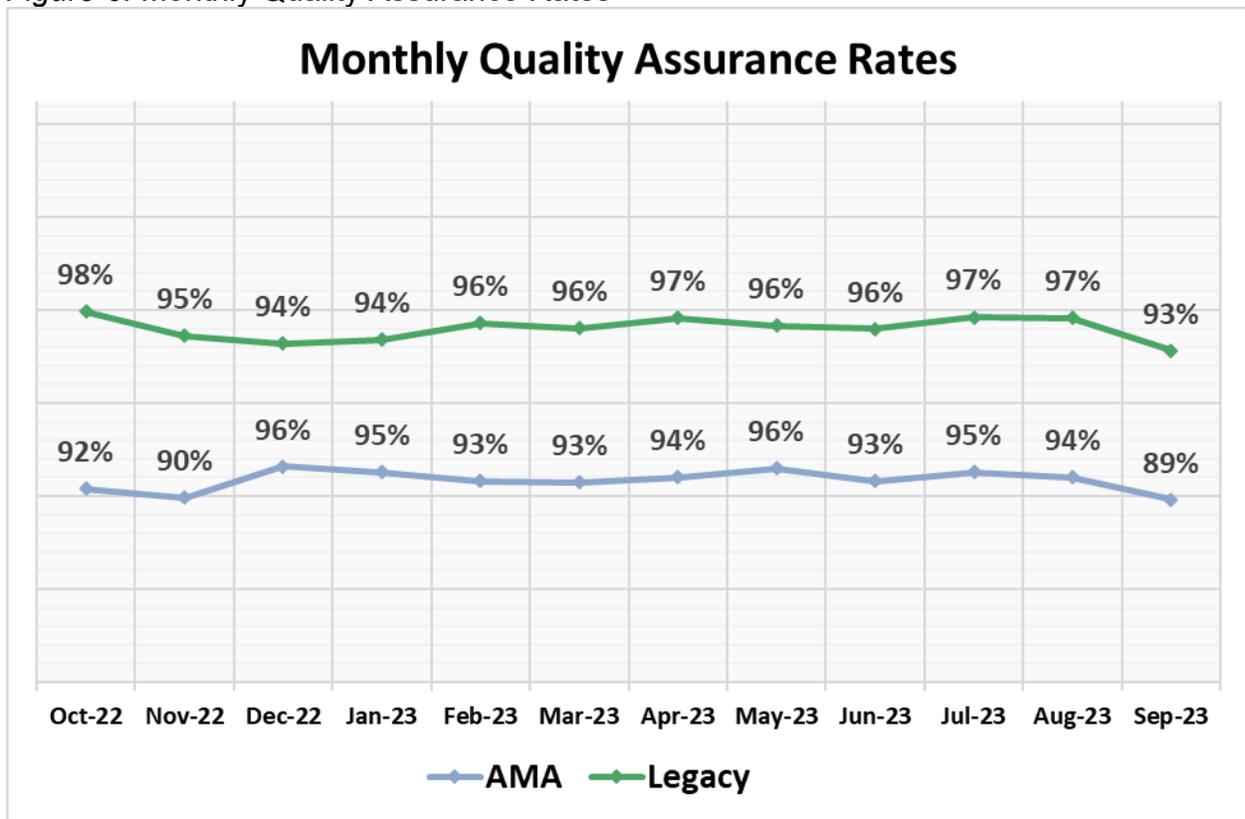


Quality Assurance (QA)

Some external stakeholders have expressed concern that the current work pace might sacrifice the quality of decision-making by VLJs. However, the Board remains 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. The Board’s Office of the Chief Counsel has specially trained attorneys in OAI that meticulously review thousands of decisions issued each year before those decisions are released to the Veterans. These attorneys identify procedural issues or other potential flaws in those decisions even though the identified issues do not amount to a basis for a different decision on entitlement to the benefit. As an example, OAI attorneys can identify and prevent unnecessary remands in instances where a VLJ attempts to remand an AMA case for additional development of evidence, based on a DTA error occurring after the record closed. While not prejudicial to the Veteran’s case, this “error” is still flagged. Any potential issues or errors found during the QA review process are raised with the VLJ who signed the decision, providing them the opportunity 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 never finds an error that would cause a case to be overturned on appeal. Figure 6 on page 13 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 Legacy and AMA appeals systems and the Board is happy to report that annual QA rates in both systems exceeded that goal in FY 2023.

Figure 6. Monthly Quality Assurance Rates



The Board continued to oversample the proportion of AMA cases reviewed in FY 2023 to ensure judges and counsel are correctly addressing the different procedural requirements under the AMA appeals system. Of the more than 3,600 cases sampled during FY 2023, statistical analysis revealed a quality assurance rate of approximately 95.8% for Legacy appeals decisions and approximately 93.7% for AMA appeals decisions.

The Board reiterates that the mere discovery of an “error” in a decision does not mean that the Board’s decision was “wrong.” In FY 2023, the Board reviewed 3,617 decisions and identified a total of 225 (79 Legacy and 146 AMA) “errors.” The Board notes there are three QA error categories—customer service errors, clear and unmistakable errors, and procedural process errors. For example, customer service errors, like including personally identifiable information in the decision, or failing to address explicitly raised theories or contentions, can negatively impact the Veterans experience with the Board. In FY 2023, approximately 14.6% 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.

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). Each year, approximately 8% to 9% of the Board’s decisions are appealed to the Court. Of that percentage, most appeals are returned to the Board pursuant to a Joint Motion for

Remand (JMR), which is reviewed by the Clerk of the Court and not a Court Judge. A JMR remands the appeal from the Court back to the Board and includes instructions for VA to follow. OAI monitors these JMRs and other Court trends. In FY 2023, the Board received approximately 5,310 JMRs from the Court.

As noted above, the Board has issued more than 95,000 decisions in each of the past 5 years. The Board grants relief on approximately 20-30% of the issues that come before it and remands tens of thousands of cases for further development based on VA's duty to assist. Generally, more than 40,000 Board decisions, those where full relief was not granted, are eligible for appeal each year. Of that number, reports indicate that approximately 20% (between 8,000-9,000) are appealed to the Court each year. Even 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, 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 an error that will typically impact the outcome, but rather, the parties attempt to ensure the rationale supporting the Board's decision is more fully articulated to the Veteran and their counsel.

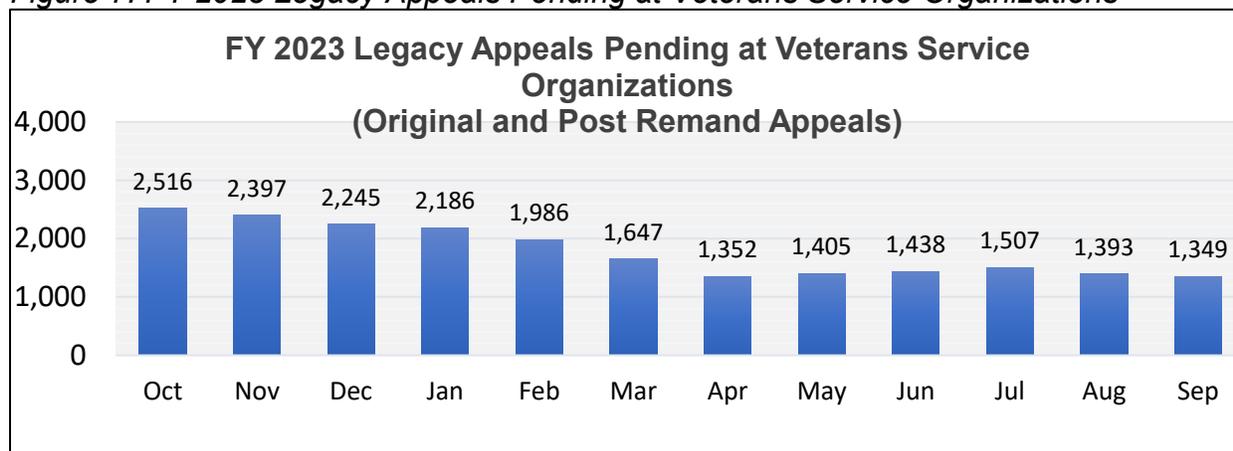
Under the AMA, Veterans and appellants have an additional option—filing a supplemental claim following a Board decision rather than appealing to the Court. Veterans can file a supplemental claim with new and relevant evidence to obtain a readjudication. As long as Veterans continuously pursue their claim within the allotted time, if eventually granted, the effective date can go back to the date of the initial claim.

Veteran Service Organization (VSO) Coordination on Pending Legacy System Appeals Inventory

Throughout FY 2023, the Board continued its significant outreach, training, and coordination with VSO partners to efficiently process cases and improve the Veteran experience. The Chairman held Nationwide quarterly VSO calls. In addition, the Board was able to fill the position of Strategic Advisor and VSO Liaison to focus on the working partnership with VSOs and the private bar to establish case management system access for external stakeholders to review inventory, tasks, and hearing schedules.

Under the Legacy appeals system, the Board accepted an informal hearing presentation (IHP) from Veterans represented by co-located VSOs as an alternative to a formal Board hearing. Based on the Board's active engagement and close working relationship with co-located VSOs, the number of Legacy system appeals in the Board's pending inventory awaiting VSO preparation of an IHP decreased during FY 2023. As shown in Figure 7 on page 15, the number of appeals pending an IHP during FY 2023 decreased 46.4% from 2,516 to 1,349.

Figure 7. FY 2023 Legacy Appeals Pending at Veterans Service Organizations



Eliminating the Board’s Inventory of Pending Legacy System Appeals

VA’s Legacy Appeals Resolution Plan includes a prioritized reduction of Legacy appeals, informed by continuous stakeholder engagement and sound workload 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 53% in the last 2 years, and by more than 87% in the last 5 years, from a high of 472,066 in November 2017, to 59,364 at the end of FY 2023. It is not coincidental that the percentage of AMA cases in the Board’s annual workload has increased as the percentage of Legacy cases has decreased.

Table 1 below shows the plan demonstrated significant progress during FY 2023 by reducing the total number of pending Legacy appeals by approximately 36% Department-wide from 92,361 at the start of FY 2023, to 59,364 at the end of FY 2023.

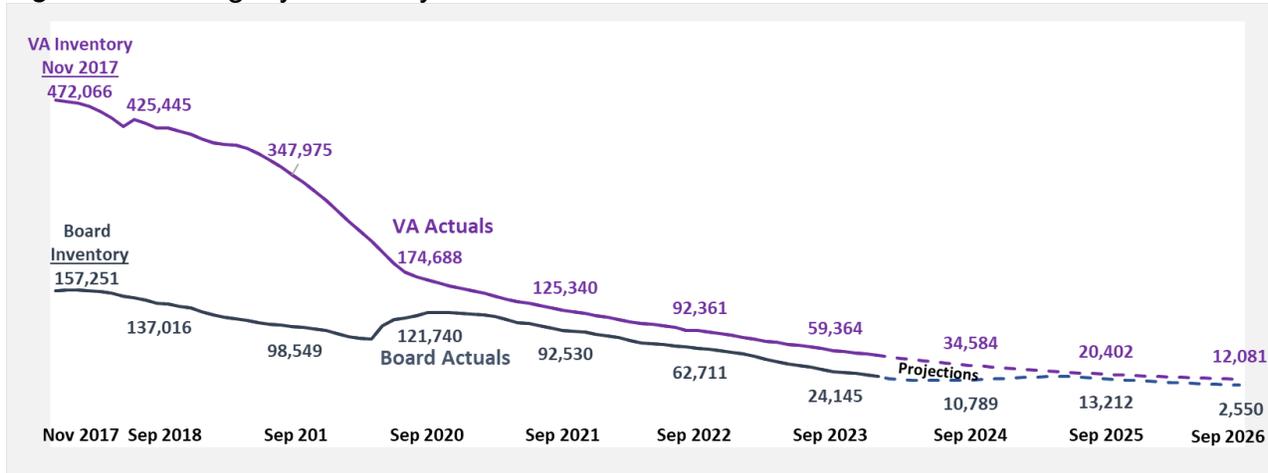
Table 1. Pending Legacy Appeals by VA Office FY 2022–FY 2023

| | FY 2022 | | | | FY 2023 | | | |
|---------------|----------------|----------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 |
| VBA | 29,757 | 30,197 | 29,770 | 27,609 | 25,098 | 28,488 | 31,041 | 33,446 |
| VHA | 1,417 | 1,552 | 1,668 | 2,267 | 2,319 | 2,051 | 2,187 | 1,951 |
| NCA | 6 | 8 | 0 | 0 | 0 | 0 | 0 | 0 |
| Board* | 85,721 | 74,974 | 68,421 | 62,485 | 56,646 | 43,940 | 33,995 | 23,967 |
| Total: | 116,901 | 106,731 | 99,859 | 92,361 | 84,063 | 74,479 | 67,223 | 59,364 |

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

Figure 8 below outlines the reduction of pending Legacy appeals Department-wide, with a breakout of specific reduction efforts and at the Board. The Board finished 2023 with 208,155 appeals pending adjudication, of which, 24,145 were Legacy appeals.

Figure 8. VA Legacy Inventory Resolution Plan

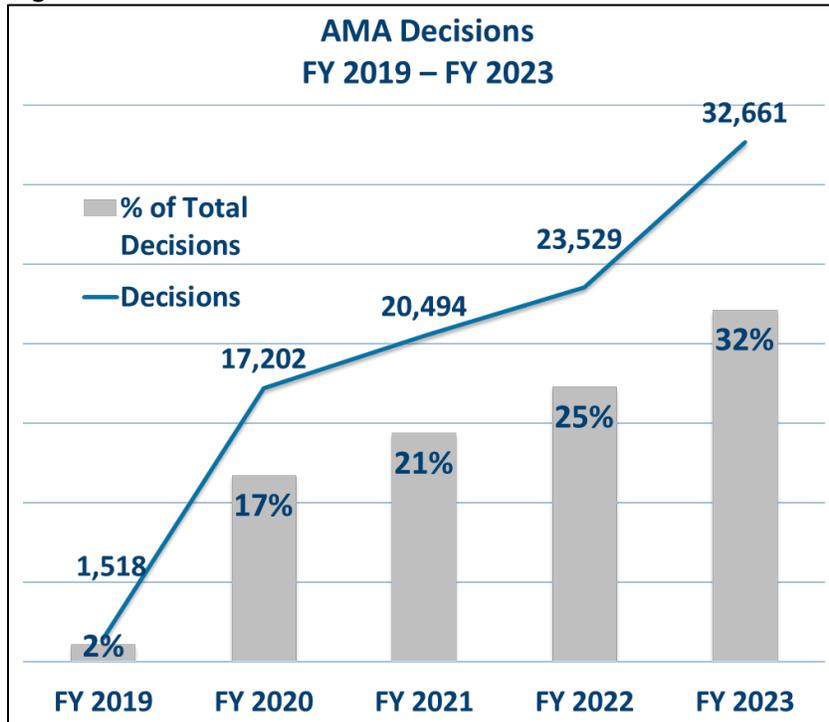


Despite the significant 87% reduction in overall pending Legacy appeals during the past 5 years, as noted above, there still has been a higher-than-expected number of both original Legacy appeals pending an initial decision by the Board and the number of Legacy appeals pending Department-wide. The initial drawdown plan was developed prior to Coronavirus Disease 2019 (COVID-19) 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.

Increasing the Pace and Timeliness of AMA Appeal Adjudication

As the Board continues resolution of pending Legacy system appeals, an exponential increase in AMA appeals decisions is anticipated during FY 2024. The Board had a 39% increase in AMA decision output during FY 2023, issuing 32,661 AMA decisions compared to 23,529 in FY 2022. Figure 9 on page 17 shows the exponential growth in the Board's AMA workload that started in FY 2023 and will at least double during FY 2024 based on recent trends:

Figure 9. Board AMA Workload FY 2019–FY 2023



Understanding these emerging workload trends are important to address stakeholder concerns about AMA timeliness. When the Board established the average days to complete (ADC) timeliness goals for AMA cases as published in the Chairman’s FY 2021 Annual Report 2 years ago, the Board transparently addressed the challenges it would encounter to initially meet those established goals. Specifically, the Board identified the backlog of pending Legacy appeals, AOD cases, and Court remand cases that would continuously prevent Board adjudication of pending non-priority AMA cases. The Board’s public website was updated in September 2022 with graphical trend data and explanations for all Veterans, VSOs, and all other stakeholders. Those explanations included the following statement:

“There are a number of factors that impact how long it will take to get a decision. For example, as the Board is able to adjudicate a higher proportion and number of AMA appeals, the likely result is completion of those AMA appeals that have been pending the longest. **Therefore, the Board expects the average days to complete AMA appeals will exceed established timeliness goals for a period of time before cresting and then settling back to within published goals.**” (Bold added).

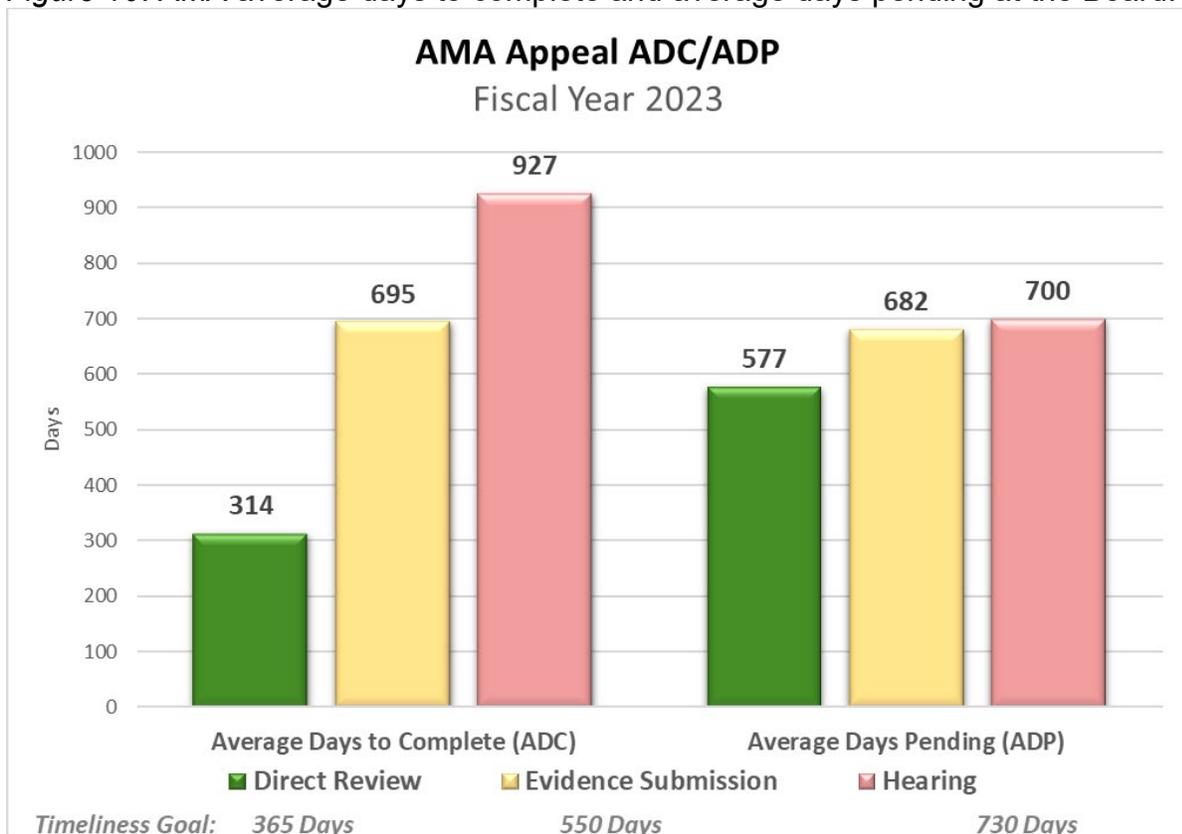
Virtually identical language was included in last year’s FY 2022 Annual Report.

Despite the Board’s best efforts to educate stakeholders about the newly established AMA timeliness goals, they remain misunderstood by many. When the Board initially established its aspirational AMA timeliness goals of ADC for each of the AMA dockets,

some stakeholders mistakenly believed the Board would adjudicate all the cases within those goals, which are: Direct Docket ADC–365 days; Evidence Docket ADC–550 days; Hearing Docket ADC–730 days. For example, the Board’s commitment to complete Direct Docket AMA appeals in an average of 365 days means that 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 10 below shows the average number of days it took to complete/adjudicate appeals by Veteran review option during FY 2023 on the left. The right side of Figure 10 shows the average days pending (ADP) for each of the AMA dockets at the end of FY 2023.

Figure 10. AMA average days to complete and average days pending at the Board.



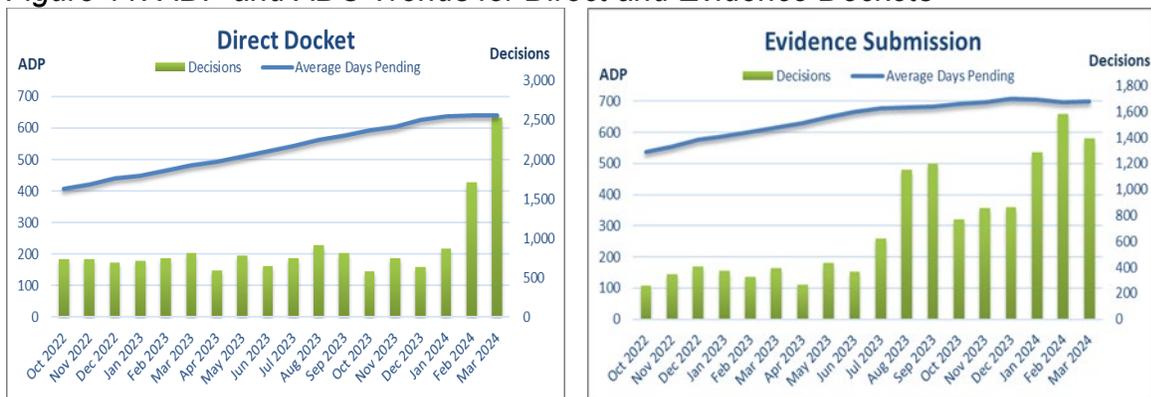
It is important to understand the relationship between these two measures. ADC is an average of how long it took the Board to decide cases in which a decision was issued during a specific period. On the other hand, ADP is a snapshot, a particular day, of the average amount of time all pending, undecided cases in the Board’s inventory have been waiting.

It is important to note that ADP trends are a leading indicator of ADC trends. The ADP continued to consistently climb after AMA was implemented, as the Board was required

to focus on Legacy appeals and AOD workloads. Once the Board was able to focus more resources to adjudicating AMA cases, especially a larger percentage of non-AOD AMA appeals that were pending the longest, the ADC started to rapidly climb. However, trend changes in the ADP numbers are a leading indicator that the Board is successfully reducing the number of non-priority AMA cases, starting with the ones waiting the longest. In other words, the average days pending starts to fall as the Board adjudicates all the non-priority AMA cases that have been pending the longest. Figure 11 below illustrates the recent trends with increased AMA decisions that led to the ADP numbers starting to peak and then drop. Thus, as the Board has cautioned in other reports, the ADC appeals would increase to levels that exceeded the initially set timeliness goals under AMA before cresting and then falling. The only question was exactly when that crest would occur and for how long before continuous improvements in timeliness occurred.

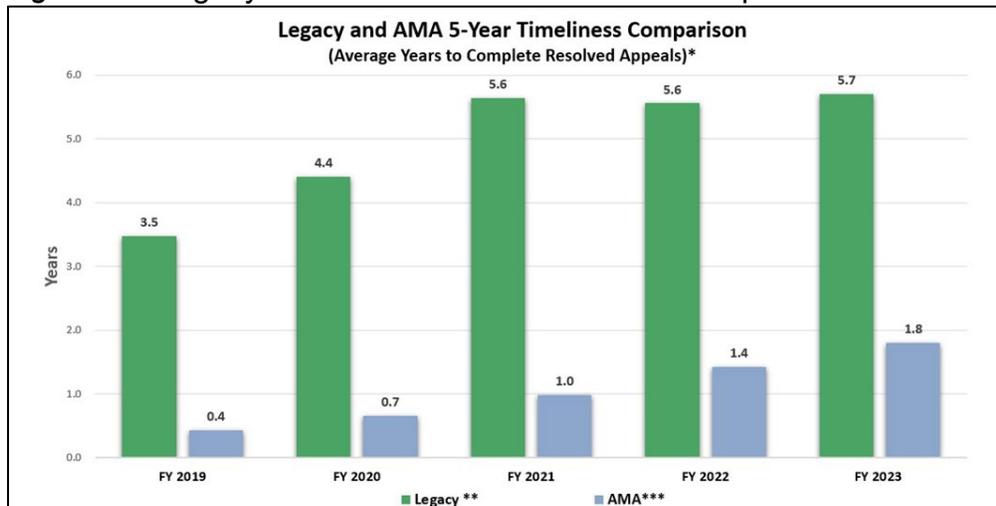
The Board is pleased to report that current data in FY 2024 indicates the average days to complete AMA cases has crested because the average days pending for each docket under AMA has already crested. As further evidence that this new trend is valid, the ADP for both the AMA Direct and AMA Evidence dockets have already started to drop, and the ADP for the AMA Hearing docket has remained essentially flat for the second quarter of FY 2024. In sum, the ADP for pending Direct docket appeals peaked at about 640 days (1.75 years) and has started to fall during the past month as AMA cases now represent approximately 60% of the weekly adjudications in the 2nd quarter of FY 2024, up from 32% during FY 2023. This is detailed below in Figure 11.

Figure 11. ADP and ADC Trends for Direct and Evidence Dockets



Based on these trends, the Board workload models indicate that the aspirational AMA timeliness goals that were established 2 years ago might be realized during FY 2025. These trends are encouraging signs that VA is achieving faster resolutions of AMA appeals when compared to the slow rates of resolution under the older Legacy system of appeals. Figure 12 on page 20 shows that the average time required to fully resolve AMA appeals, meaning all issues have received a decision on the merits by a VLJ, is 3.5 to 4 years less than the time required to fully resolve Legacy system appeals. This gap will continue to widen as the pace of AMA adjudication at the Board continues to accelerate.

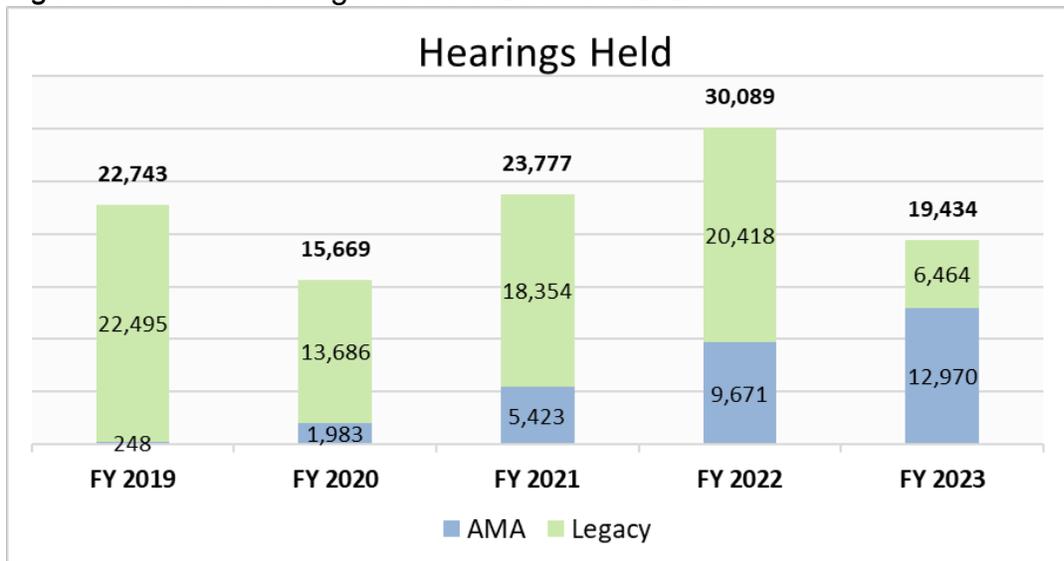
Figure 12. Legacy and AMA 5-Year Timeliness Comparison



Hearings

The Board is still working through impacts caused by COVID-19-related shutdowns. During FY 2021, the number of pending hearings dramatically increased. To counteract that increase, the Board made a conscious decision to focus on and conduct more hearings in FY 2022. The Board steadily increased the number of hearings held per month from 869 in October 2020 to an average of 2,500 in FY 2022. As a result, the Board held a record 30,089 hearings in FY 2022, as shown in Figure 13 below. During FY 2023 the Board held an average of 1,620 hearings per month.

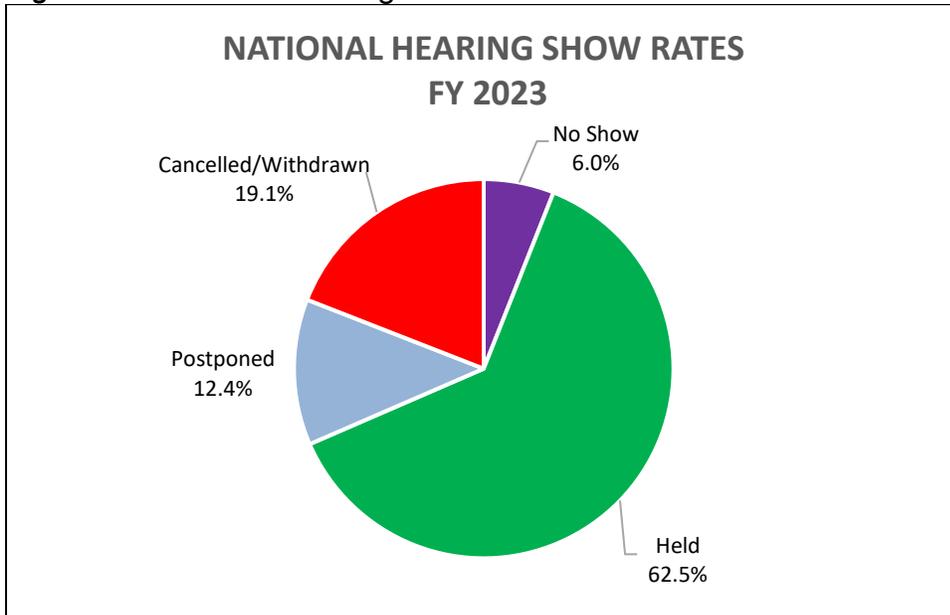
Figure 13. Total Hearings Held FY 2019–FY 2023.



Note: COVID-19 significantly impacted hearing operations in FY 2020, which had been on pace to reach over 24,000 hearings that year.

A total of 31,118 hearings were scheduled by the Board during FY 2023. As noted above, 19,434 hearing were held and another 5,931 were canceled/withdrawn by the Veteran. This resulted in a total of 25,365 (82%) scheduled hearings being resolved. The hearings held rate for FY 2023 was approximately 62%, an increase of 5% over FY 2022. Figure 14 below shows that approximately 12% of the remaining scheduled hearings were postponed, 19% were canceled, and the appellant failed to appear in about 6% of the scheduled hearings.

Figure 14. National Hearing Show Rates



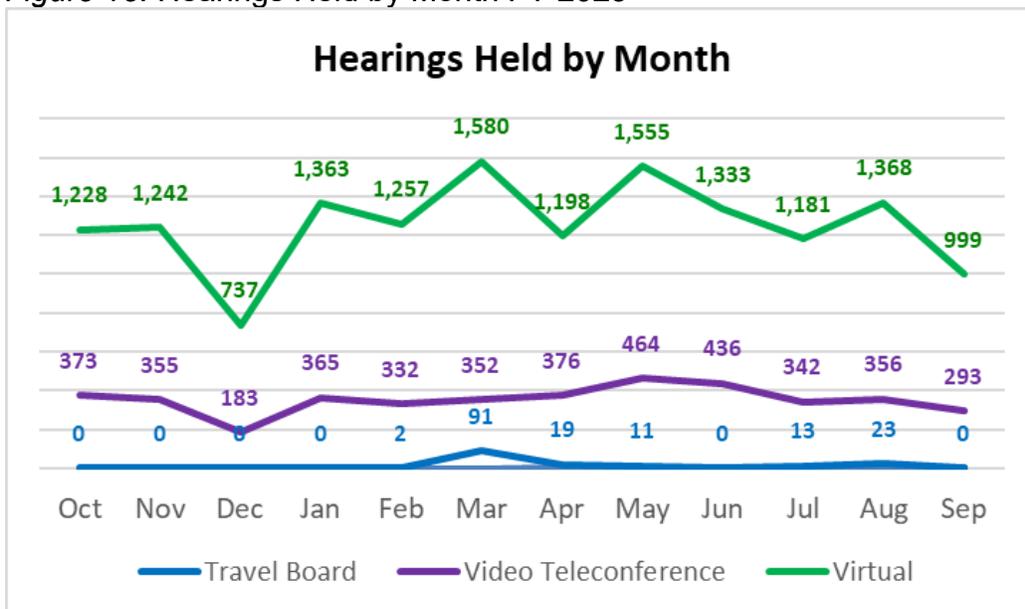
The Board has steadily increased utilization of virtual tele-hearing technologies since passage of the VA Tele-Hearing Modernization Act (P.L. 116-137) in April 2020. Virtual hearings allow Veterans and their representatives to appear before VLJs over a video link from separate locations. This eliminates the need for Veterans to travel and meet in-person with their representative at a Regional Office facility before getting on a two-way video teleconference with a VLJ. The increased use of virtual hearings has been a game-changer, making the entire hearing process less burdensome and more convenient for Veterans, especially with the physical and health challenges many Veterans face.

However, the increased use of virtual hearings has highlighted their limitations. While the Board currently has the capacity to hold approximately 1,000 hearings each week, many Veterans are represented at no cost by the Veterans Service Organization (VSO) partners who do not share that same capacity. In addition, some Veterans are represented by accredited representatives, who sometimes after waiting years for a requested hearing, waive the requested hearing or seek a postponement once it finally gets scheduled. Crucially from the Board's perspective, nearly half of the scheduled hearings that are ultimately cancelled or withdrawn are done so with insufficient time for the Board to fill that empty slot with another patiently waiting Veteran. 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 to resolve appeals for other waiting Veterans. Figure 14 on page 21 also illustrates the ratio of hearings held versus hearings scheduled and highlights the challenge to ensure judge availability is maximized.

Forum of Choice data shows that Veterans have embraced and are overwhelmingly electing to use the virtual tele-hearing capability. Figure 15 below shows the breakdown of hearings held per month during FY 2023 by each hearing venue. The overwhelming majority of hearings currently held by the Board are virtual tele-hearings. This is also the fastest way to have a hearing. Video Teleconference hearings and Central Office hearings take significantly longer to schedule than a virtual tele-hearing.

Figure 15. Hearings Held by Month FY 2023



Note: In FY 2023 there were 7 Central Office hearings conducted at the Board's headquarters in Washington, D.C.

Since AMA implementation in February 2019, the Board has been operating in two separate appeal systems. The complete transition to AMA has taken longer than originally thought, yet the transition can be clearly observed in data tracking pending hearing requests. As shown in Figure 16 on page 23, the Board successfully reduced the number of pending Legacy hearing requests during FY 2023 by 85% from 7,150 to 1,054. At the same time, 71,411 more recently requested AMA hearings were pending with the Board at the end of FY 2023, an increase of 4,150 (6%) over FY 2022. That said, a review of the data demonstrates that 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.

Figure 16. Pending Hearing Requests FY 2019–FY 2023



Table 2 below shows the breakdown of AMA net case receipts for FYs 2020-2023. Data trends show changes in Veterans choice when choosing appeals with hearings versus other review options. The data indicates that while Veterans initially requested Hearings 47% of the time and Direct Review 36% of the time, by FY 2023 Veteran choice had literally flipped. Meanwhile, the percentage of Veterans selecting the Evidence Submission docket increased slightly from 19% in FY 2022 to 20% in FY 2023. The data clearly confirms that Veterans are increasingly choosing the AMA Direct Review over the Hearing docket.

Table 2. AMA Net Case Receipts

| AMA Net Case Receipts | | | | |
|-----------------------|---------|---------|---------|---------|
| | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
| Direct Review | 36% | 38% | 42% | 45% |
| Evidence Submission | 17% | 21% | 19% | 20% |
| Hearing | 47% | 41% | 39% | 35% |

The Board’s expanded virtual tele-hearing capacity, 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 ability to deliver this half of the Board’s mission in the wake of public health restrictions imposed by the COVID-19 pandemic and in light of continuing health care concerns many Veterans and their representatives have about traveling and in-person meetings. The Board has continued

to improve 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 77.4% of all Board hearings in FY 2023—a 6.1% decrease from FY 2022. Over the course of the past year, the Board has observed a slight drop in three-point virtual tele-hearings with a corresponding increase in two-point video teleconference hearings. One trend that the Board continues to watch is the monthly percentage of overall hearings held that were accomplished using virtual tele-hearings versus video teleconferencing where, in the latter case, the Veteran is required to travel to a Regional Office to meet with their representative in-person to appear before a VLJ who has connected via video. Metrics comparing virtual hearings scheduled and held over both years are shown below in Table 3.

Table 3. Comparison of Virtual Hearing Scheduled and Held

| | |
|--|---------------|
| Total FY 2023 Virtual Hearings Scheduled | 21,248 |
| Total FY 2023 Virtual Hearings Held | 15,041 |
| Total FY 2022 Virtual Hearings Scheduled | 36,066 |
| Total FY 2022 Virtual Hearings Held | 25,131 |

FY 2023—Focusing on Veteran Trust

As should be clear, the numbers of decisions issued, and hearings held are important metrics to track. However, the Board continues to consider Veteran trust to be the most important metric to measure the Board’s mission success. Veteran trust is a barometer of organizational reliability and quality. This is an indicator of Veterans’ experience in their interactions with the Board. The factors that influence Veteran trust will be discussed below.

VA understood that the older “Legacy system” claims and appeals process was slow and frequently confusing for Veterans. The Department worked with Congress, which ultimately passed the AMA in 2017. A hallmark of the AMA is increased Veteran choice 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 possible effective date by continuously pursuing their claim. This means that as long as a Veteran continuously seeks timely review or readjudication following denials of their claim, if it is eventually granted, the effective date can go back to the date of the initial claim. Following a Board decision, the AMA allows Veterans and appellants to obtain a new adjudication based on new evidence, through a supplemental claim timely filed with the VA office of original jurisdiction. Veterans are no longer limited to filing an appeal at

Court. This Veteran-centric option has proven highly effective.

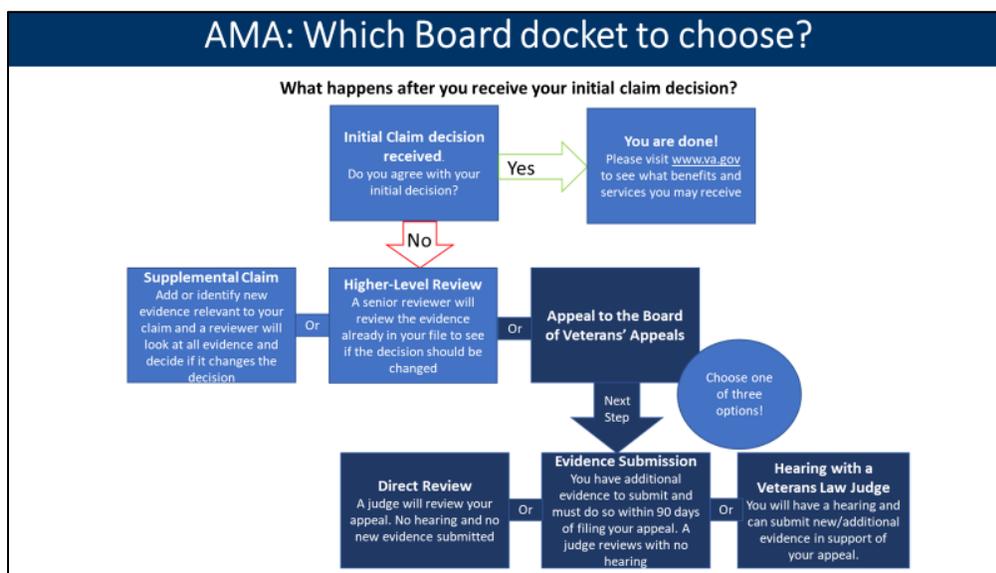
The AMA was designed to help make the claims and appeals process less cumbersome and more efficient, outlining specific evidentiary windows for each type of review. As noted above, there were still nearly 57,000 Legacy system appeals Department-wide at the end of October 2023 and these generally represent 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 in Figures 20 and 21 on page 29, a comparison of disposition rates in Legacy and AMA systems indicates that AMA appeals results are more Veteran-friendly than the older Legacy appeals, helping to increase Veteran trust scores.

Veterans Choice

The AMA provides more Veteran choice by creating three initial review options. 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 in turn elect one of three appellate review options, referred to as dockets: 1) a direct review of the same evidence considered by the 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 17 below explains the AMA options Veterans can choose from.

Figure 17. AMA: Which Board Docket to Choose?



As the AMA recognized, Veteran choice is an important factor in how long it will take to resolve an appeal. Veterans and appellants electing to appeal a decision directly to the

Board have three different review options, or “dockets,” to choose from based on 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 the case based on the evidence in the record at the time of the decision under appeal.
- **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 virtually. However, this option has the longest wait time.

A review of the data shows that many Veterans are choosing the VBA options (Higher-Level Reviews (HLR) and supplemental claims) for a second review after their initial VBA decision. As shown in Figure 18 on page 27, the percentage of Veterans choosing to appeal to VBA appears to be increasing each year. Since AMA implementation through the end of FY 2023, the Board has received approximately 279,414 (16%) appeals, compared to 1,522,281 (84%) HLR or supplemental claims at VBA. While the number of VBA’s HLRs and supplemental claims have increased during the past 5 years, the average number of docketed AMA appeals at the Board have remained constant during this same period (an average of 65-73,000 per year). Of note, the number of AMA claims received by VBA increased 44% in FY 2023, compared to an AMA appeals receipt increase at the Board of 7%. Appeal receipt projections developed 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 could increase by as many as 85,000 additional AMA appeals annually in FY 2024 and 2025.

Figure 18: AMA Receipts – Claims (VBA) & Appeals (Board)



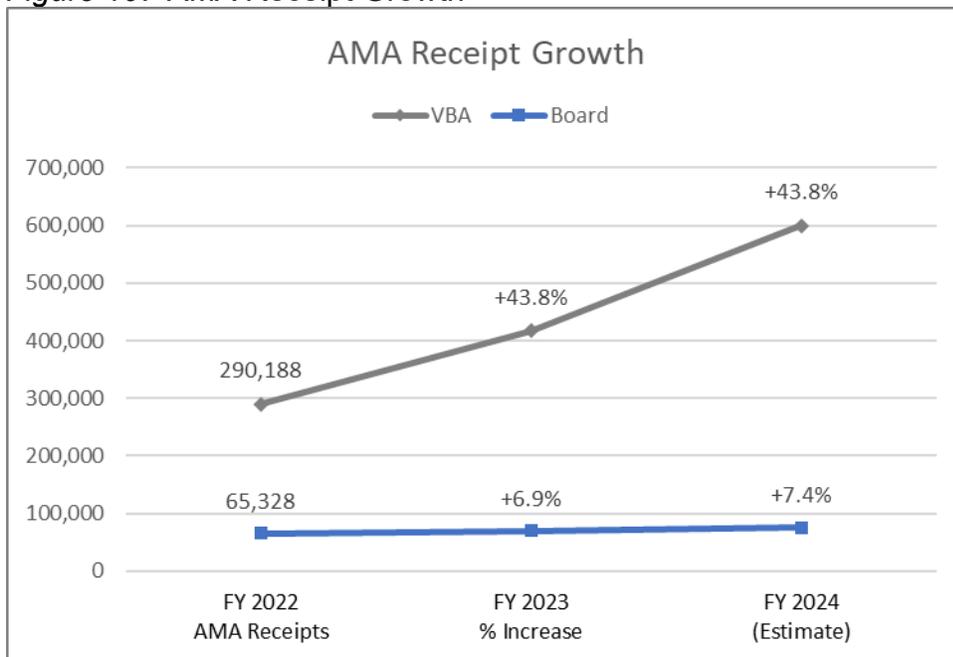
Table 4 below shows the increasing percentage of Veterans that have taken advantage of the AMA option to file their AMA claim at VBA, as opposed to filing an appeal to the Board.

Table 4: Appeal Receipt Percentage Comparison Board/VBA

| Fiscal Year End | Month of September | | Fiscal Year Total | | Cumulative Total | |
|-----------------|--------------------|-------|-------------------|-------|------------------|-------|
| | VBA | Board | VBA | Board | VBA | Board |
| FY 2019 | 70% | 30% | 84% | 16% | 84% | 16% |
| FY 2020 | 85% | 15% | 88% | 12% | 87% | 13% |
| FY 2021 | 86% | 14% | 83% | 17% | 85% | 15% |
| FY 2022 | 80% | 20% | 82% | 18% | 84% | 16% |
| FY 2023 | 87% | 13% | 86% | 14% | 84% | 16% |

These stark variations between different AMA workloads at the Board and VBA have resulted in unique capacity building models for each organization. As shown in Figure 19 on page 28, HLR and supplemental claim workloads at VBA are rising at a rate of approximately 44% per year versus only a 7% rise in AMA appeals to the Board. While some have suggested the Board should be hiring personnel at the same rate as VBA, this graph makes clear why that is unnecessary.

Figure 19: AMA Receipt Growth



Improved Access and Outcomes Under the AMA

Early signs are encouraging and support the contention that Veterans experience better outcomes and faster resolution of their appeals under the AMA. This is good news for Veterans and appellants and validates the changes implemented by the law. Even better, Veterans 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. Figures 20 and 21 on page 29 show remand rates are nearly 20% lower under the AMA appeals process compared to the Legacy appeals system. Figures 20 and 21 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%. “Denial” refers to appeals where none of the relief sought was granted.

The Board continues to closely monitor and analyze resolution rate trends under both the Legacy and AMA systems during the past 5 years so stakeholders can better compare the two 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 20 and 21 on page 29 show that remand rates under the Legacy appeals system have remained relatively stable, with roughly 58% of all appeal decisions being remanded, while remand rates under the AMA system have consistently been much lower—17 to 19% better than Veterans experience under the

Legacy system.

Figure 20: Legacy Appeals Resolution Rates: 5-Year Trend

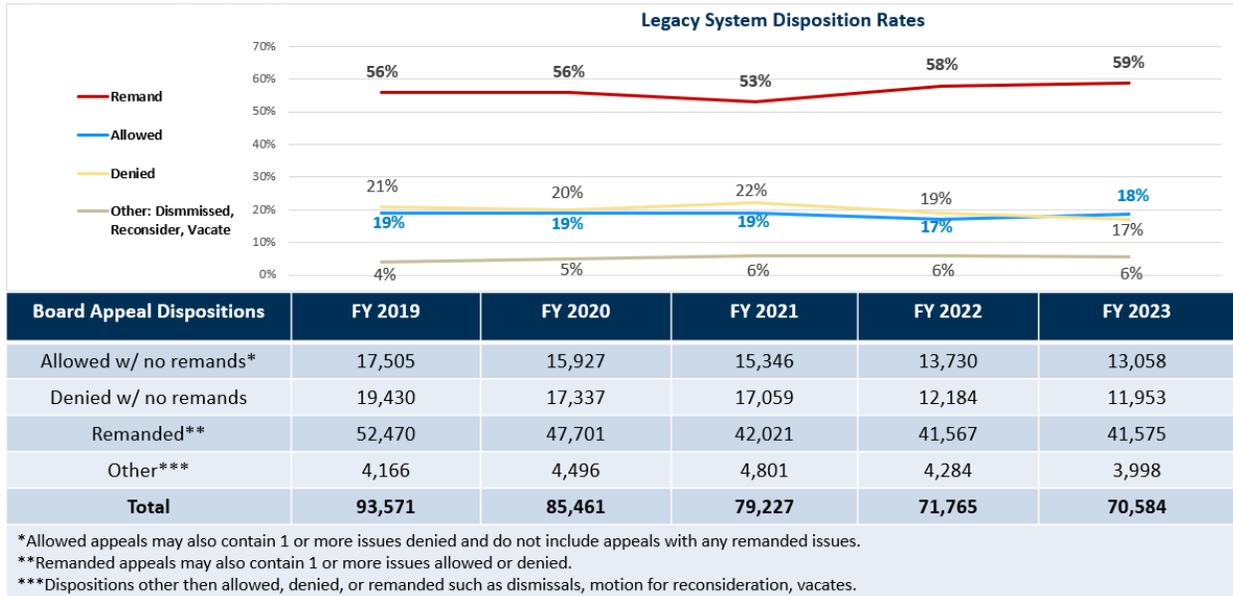
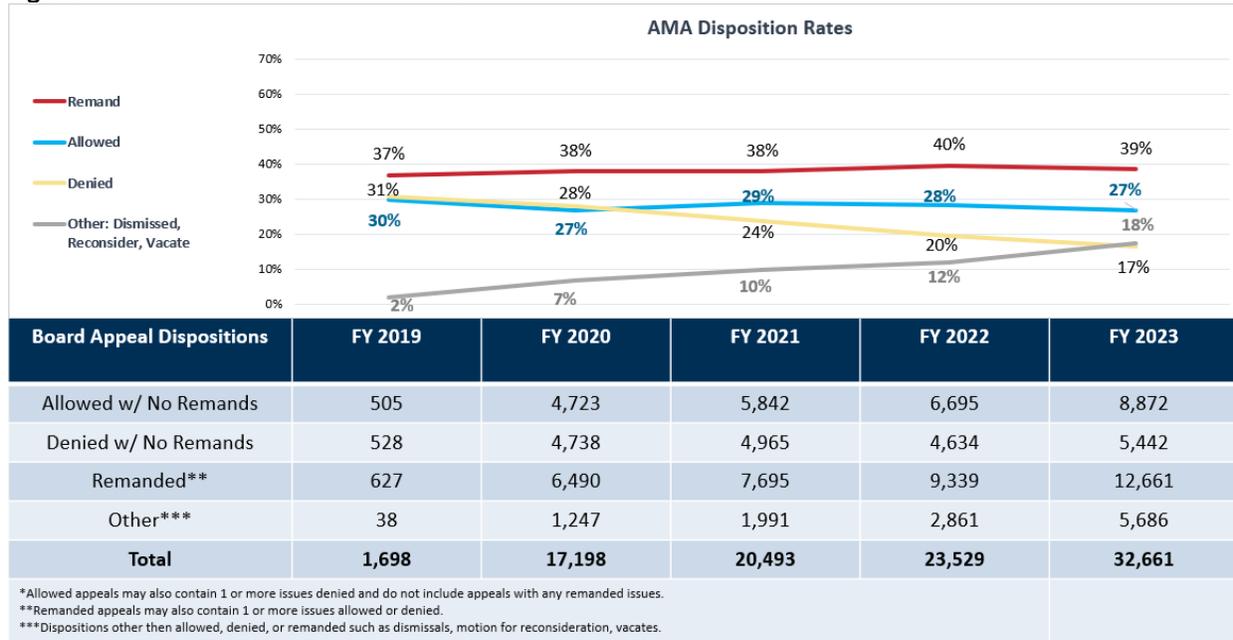


Figure 21: AMA Resolution Rates: 5-Year Trend



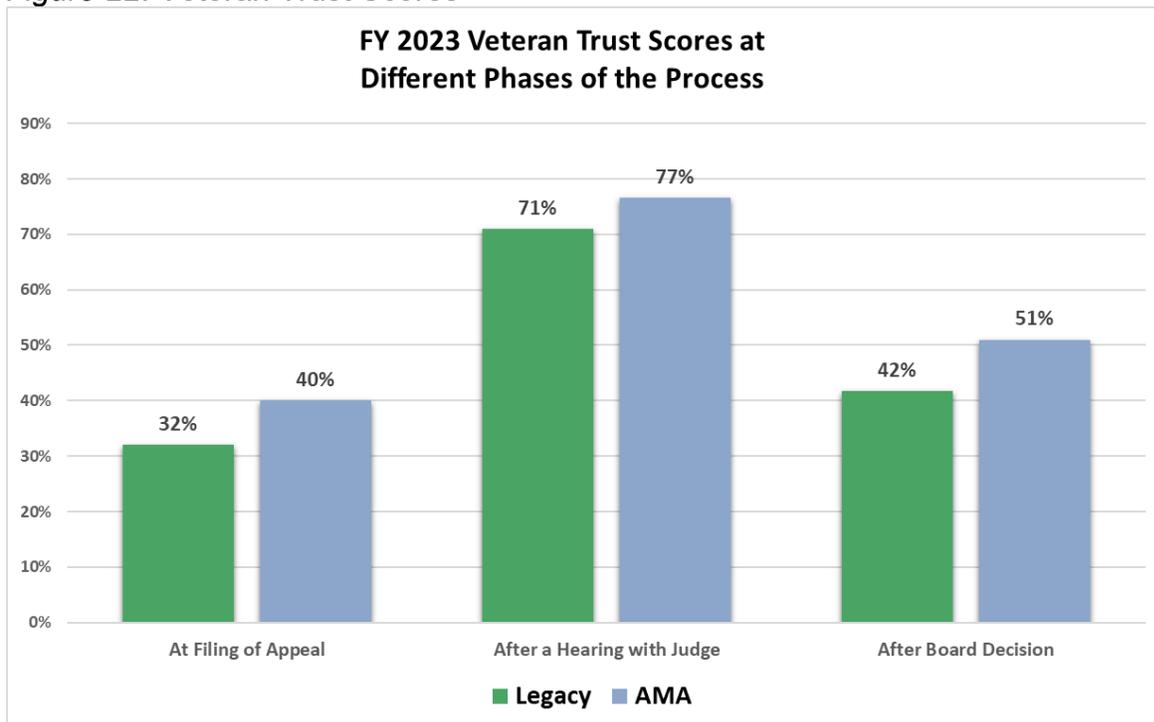
Increasing Veteran Trust Scores

The Board collaborates with the Veterans Experience Office (VEO) to administer Veterans Signals (VSignals), a customer experience survey for 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 survey data is used by the Board to measure Veteran understanding and improve the hearing experience, as well as to revise letters and decisions to provide better information and clarity to Veterans. Figure 22 below shows that Veteran trust with the Board continues to increase throughout the lifecycle of their appeal at the Board.

The survey data demonstrate that the Veteran experience during the appeal process is generally positive, with overall trust scores rising approximately 10-11 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 dramatically increases after a hearing with a Board VLJ, which is often the first opportunity for many Veterans to hear a first-hand explanation from the judge as to why the initial claim was denied and what evidence is needed to support the benefits or services sought.

Figure 22: Veteran Trust Scores



Throughout FY 2023 the Board continued 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 Veterans’ representative community.

It is important to reiterate how Veteran trust scores have been impacted under both the Legacy appeals system and AMA system, 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 22 on page 30 demonstrates that Veteran trust scores increase 10-11% from the time they initially file an 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 2023, the Board continued to work closely with the Office of Information and Technology to develop and deliver new capabilities and functionality in Caseflow that directly support AMA and while allowing the Board to increasingly focus on drawing down Legacy appeals inventory. Throughout FY 2023, important new Caseflow AMA functionality was released focused on the system’s Full Operational Capability, while maintaining progress on the Chairman’s priorities to align with VA strategic goals. Key accomplishments in FY 2023 included:

- Optimizing the automatic case distribution algorithm to improve workload management and case distribution to align with the Board’s mission and goals;
- Providing additional options for recording remand reasons more clearly analyze data and follow trends on AMA appeals in support of the statutory quality feedback loop;
- Adding a capability to handle hearing withdrawal requests for direct and streamlined routing for efficient processing of AMA and legacy hearing withdrawals to protect valuable VLJ availability for hearings;
- Releasing Hearing Postponement Request Mail Task to route postponement requests received directly to the Hearing Team to obtain a ruling more quickly on the request by the VLJ allowing more efficiency in the hearing postponement process;
- Scheduling and maintaining Travel Board hearings in Caseflow instead of manually, which enabled the 800+ Veterans with pending Travel Board requests to be scheduled via Caseflow and appropriately tracked via Tableau while focusing on FY 2024 elimination of Travel Boards;
- Improving Caseflow’s integration with VANotify to provide Veterans real-time status updates for their appeal via email and also via text. Emails are now personalized with the Veteran’s first name and provide details about the appeal process, how to contact the Board and allow Veterans to ‘opt-out’ of receiving text messages through VA.gov. This functionality increases transparency around the appeals process and aims to improve Veteran satisfaction with the Board and VA. The Board sent more than 1 million VANotify appeal updates in FY 2023;
- Creating the ability to split appeal streams from a single appeal onto separate appeal streams to enable the Board to issue separate decisions when needed;

- Enhancing the Pre-docket Queue to facilitate better collaboration between the Board and VHA for more determinations of appeal eligibility, jurisdiction, and docketing; and
- Improving end-user experience with Caseflow Reader by improving document list load time for documents into Reader from the Veteran's claim folder and improving document caching strategies in Reader each night instead of downloading documents directly from VBMS. These improvements are focused on reducing wait times for users to retrieve documents from VBMS.

The Board continued to improve the Interactive Decision Template (IDT) to ensure timely written decisions and correspondence. In FY 2023, the IDT integrated VA's address APIs to allow for validation of addresses while composing letters to identify potential mailing problems before attempting to mail them. Additional work was done in the IDT and Caseflow to allow the IDT to send letters to VBMS Package Manager, saving the time and effort previously needed for the user to reenter the address and manually setup Package Manager to mail the letter. Adding to the mailing capabilities, the IDT added the ability to create and send correspondence to Veterans without appeals, such as when needing to request additional information from a Veteran before their appeal may be docketed.

FY 2023—Mission First, People Always

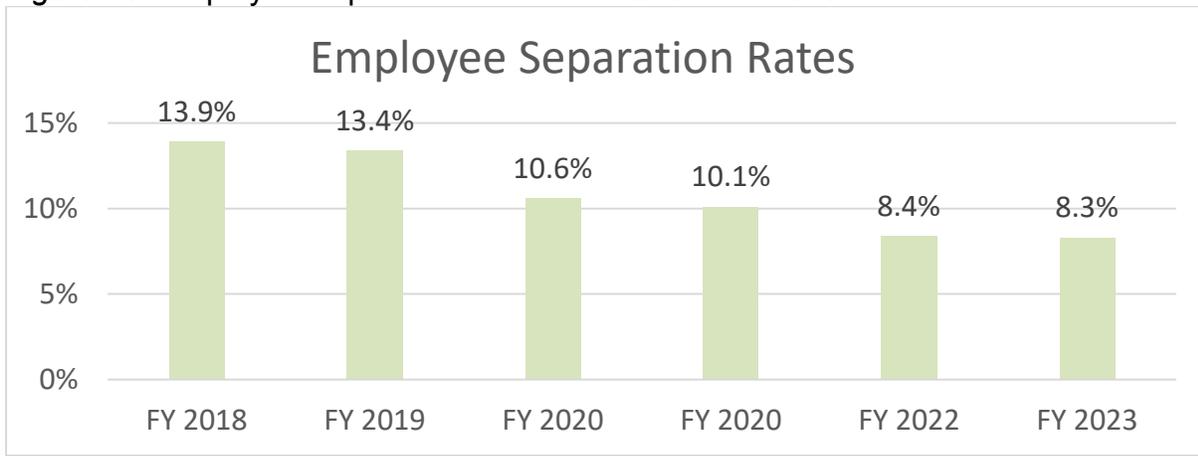
Recruitment and Retention of Board Personnel

The Board has grown, and we are still growing thanks to continued investment by the Department and Congress. The Board strengthened recruiting and hiring in FY 2023. The Board started FY 2023 with fewer FTEs on-board than originally planned and revised its FY 2023 cumulative FTE goal to 1,341. To meet this goal, the Board started an aggressive hiring plan that resulted in the on-boarding of approximately 200 new decision writing attorneys and law clerks.

The additional attorneys and administrative and operational personnel are exceptionally diverse 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. Figure 23 on page 33 shows that the Board's annual attrition rate decreased from approximately 13.9% in FY 2018 to 8.3% in FY 2023. The Board continues to monitor attrition rates very closely, particularly considering increased attrition rates in both the private and public sectors after COVID-19. Our 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. In FY 2023, the Board removed the maximum cap for reimbursement of dues and related

fee payment for a single bar. 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 2023.

Figure 23. Employee Separation Rates FY 2018 – FY 2023



No new VLJs were added to the Board during FY 2023; however, the Board remains focused on hiring approximately 175-200 additional attorneys in FY 2024 to fully staff each judge team.

Most Board employees continued to work remotely or via telework during FY 2023. This was based on lessons learned during the pandemic and was responsive to employees' requests for improved work/life balance, while ensuring ongoing operational success. In addition, the Board's robust remote/telework policies resulted in stronger recruitment actions and enabled the Board to reduce its physical workspace. Telework and remote programs have 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. 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.

These collective efforts have allowed the Board to maintain a record level of production and provide Board hearings throughout the year.

Military Spouse Friendly

The Board remains committed to being the most military spouse friendly employer in the Federal Government. The Board continues 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 the 56 states, commonwealths, territories, and the District of Columbia.

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 VLJs tripled during the past 18 months, from 8% of all judges to approximately 24%. As of the end of FY 2023, the Secretary had appointed 53 new VLJs, bringing the total to 134 VLJs onboard at the end of FY 2023.

VLJs have long served as leaders and mentors at the Board, especially because they manage 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 is not 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.

In April 2023, the Board organized the first-ever 1-week judicial training conference for all VLJs. The 1-week training was held in-person and allowed for excellent training and critical interaction among the largest and most diverse class of VLJs. To meet statutory mandates, the Judges received training related to Military Sexual Trauma to better prepare them to deal with those issues in hearings and written decisions.

New Employee Sponsor Program

In partnership with the VEO Employee Experience team, the Board launched the New Employee Buddy (NEB) Pilot Program in FY 2023. The pilot paired current employees (Buddy) with each incoming new employee as a guide during the first 3 months of employment at VA. Compared to new employees that did not participate in the program,

new employees who completed the NEB were, among other positive outcomes, 57% more likely to recommend working at VA to a friend or family member, 51% more likely to feel acclimated to and integrated in the workplace, and 38% more likely to report knowing who to seek assistance from. Additionally, 100% of NEB program-participating new employees cited they would recommend working at VA to a friend or family member.

Given the pilot program's success, the Board launched the New Employee Sponsor (NES) program in FY 2023. In NES, current employees are matched with new employees to "sponsor" them during the first few months after on-boarding. This is like military sponsor programs when a member moves to a new duty station and is provided a sponsor to help them acclimate. The Board will continue this effort in FY 2024.

Training

The Board's Professional Development Division (PDD) facilitates 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. PDD also partners with OAI to provide Board-wide training addressing application of the AMA, all precedential decisions issued by the Court and the Federal Circuit during the FY, the PACT Act, 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, all new attorneys are paired with a training acting VLJ experienced in adjudicating appeals under both the Legacy and modernized systems.

New VLJs participate in an intensive 3-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 facilitated this training program in FY 2023 for 2 separate cohorts totaling 20 new VLJs, which included training on the AMA.

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.

Employee Engagement

The Board remains committed to prioritizing employee engagement. Leadership's emphasis on the motto of "Mission First, People Always" is a reminder that employee wellbeing is an essential aspect of a healthy organizational culture. During FY 2023, the Board encouraged employee-driven activities and connections. There are 10 currently active Employee Associations at the Board, 3 of which were started in the past year. These groups seek to connect employees with similar interests.

In addition to these employee lead activities, as noted above, the Board reached a milestone of 90 years of service to Veterans and their families in July 2023. To honor and celebrate this achievement, a committee of employees worked diligently to develop events to help Board staff connect to and celebrate our mission of serving our Veterans through a variety of activities.

Throughout the year, Board employees participated in and connected with one another through virtual events, including town halls, coffee breaks, webinars, and leadership discussions. The Board's 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.

Board leadership at all levels implements action plans based on the results of the All Employee Survey. One of the top priorities across the organization was improved communication. In June 2023, a Communications Review Group was established to develop recommendations for Board leadership on how to address the perceived gap in communications. The group will provide recommendations to leadership in FY 2024.

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. Several new initiatives include the establishment of the BVA Historically Black Colleges and Universities (HBCU) which has been actively recruiting attorneys and providing outreach to the six HBCUs as well as other legal organizations with Leadership's full support. A group of Board employees spearheaded founding the VA Military Spouse and Family Employee Resource Group (ERG), a Department of VA ERG for VA employees interested in helping amplify the voices of military spouses and family members employed at VA. The Board also hosts a robust internal employee driven Diversity and Inclusion Caucus that provides monthly programming. Their mission is to support a diverse workforce by cultivating an inclusive organization and broadening perspectives by planning educational events open to all Board employees.

After the successful participation in the VEO New Employee Buddy Program pilot, the Board launched its own version renamed the New Employee Sponsor Program to support the initial transition of new employees to the Board. The Board also supported the creation of several new employee-driven associations to foster connections across our largely remote organization. One was the creation of a weekly Mindfulness and Meditation session mid-week as well as a group named the “Foodie Forum” that seeks to foster a sense of community among employees at the Board by discussing fun, food-related topics, provide breaks from the day, and to participate in food-related activities. As reported on the All Employee Survey, the experience of discrimination in the workplace continues to remain low at 5%, well below the overall VA average of 11%. Additionally, the data from a new question on the survey, “my supervisor demonstrates a commitment to workforce diversity,” with fewer than 5% of respondents reporting out negatively on this item.

Strategic Plan and Priorities for FYs 2024 and 2025

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 11 in Figure 4, nearly 40% of the Board’s annual decision output in FY 2023 was re-adjudication of previously remanded cases the Board had previously adjudicated at least once. Thoughtful solutions to this challenge will require enterprise-wide efforts ,both internal and external to VA, because root causes extend beyond the Board and VA.

Maximizing the Number of Veterans Served

The Board’s goals for FY 2024 are to adjudicate at least 111,000 appeals for Veterans and resolve the pending original Legacy system appeals. The Board intends to meet these goals through continued innovations, increased resources, and improvements to our processes and technology. To match the 31% increase in VLJs hired during the past 2 years, the Board anticipates hiring 150-200 new attorneys during FY 2024, on top of the roughly 200 new attorneys hired during FY 2023. This will allow the Board to fully staff each VLJ with decision drafting attorneys focused on increasing the number of issued decisions during the latter part of FY 2024 and into FY 2025.

In FY 2024 and beyond, 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 VLJ; (2) root causes related to remands, both from the Court and by the Board; (3) dramatically increasing the overall number of AMA appeals decided; (4) achieving timeliness goals set for AMA decisions; (5) refining the Board’s Quality

Assurance program; and (6) supporting 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 87% reduction in pending Legacy appeals during the past 5 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-19 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-19-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. The most recent FY 2024 update of the plan included with this report shows the same challenges of very long resolution times under the Legacy appeals system that resulted in the passage of AMA still persist. Accordingly, the corresponding challenges with continuing to operate in two appeals systems is lasting far longer than anyone originally projected. Remands remain very high when compared to AMA because the ever-changing evidentiary records mean Legacy cases often must be re-adjudicated multiple times before full resolution can occur. These re-adjudications consistently displace Veterans with original Legacy appeals awaiting first-time adjudication and also those Veterans waiting for their AMA appeals to be decided.

The Board revised case distribution methodologies during FY 2023 to ensure previously displaced original Legacy appeals were being adjudicated at a faster pace, resulting in a 65% reduction of those over the course of one year. During FY 2024, the Board has a goal to reduce those pending original Legacy appeals to functional zero.

► **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 VLJ 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 system appeals returned to the Board after remand, 53% of them have been remanded at least twice, 27% have been remanded 3 times or more, 15% have been remanded at least 4 times, and 8% have been remanded 5 times or more. Legacy system remand rates continue to climb from both the Board and the Court. 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 assembled a tiger team to evaluate root causes and ways to reduce remands from the Board to VBA. Though remands under AMA have consistently been 20% lower than under the Legacy system, the Board is concerned they are still too high and is developing training and additional quality assurance evaluations to determine whether AMA remand rates might be lowered even more.

► **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 during FY 2023 and FY 2024. VLJs met his challenge to decide a new record-high of at least 103,000 decisions in FY 2023 and are on pace to set another new record during FY 2024. Because the Board expects to recruit and hire to support another substantial increase in decision-drafting attorneys during FY 2024, the Board is hoping for even higher dividends during FY 2025 as those attorneys become fully trained to support their judges with high-quality draft decisions ready for final review and signature.

► **Addressing Pending AMA Appeals:** After setting long-term targets of 365 ADC Direct docket appeals, 550 ADC for the Evidence docket, and 730 ADC for Hearing docket appeals, the Board 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 had a 39% increase in AMA appeals adjudicated even though the annual output was still heavily weighted toward Legacy system appeals. FY 2024 goals include having AMA decision output be the majority of all cases decided and to move into a posture where at least 80% of annual output during FY 2025 will be AMA appeals. In last year’s annual report, the Board was careful to note the average days to adjudicate AMA appeals was expected to increase during FY 2024, but the Board expected the average days to drop quickly once Legacy appeals were reduced because of the overall yearly decision output becoming more heavily focused on AMA decisional output during the following 2 years. That projection appears to be on track going into FY 2025.

► **Quality Assurance:** The Board has been collaborating closely with the Government Accountability Office (GAO) during the past 2 years to evaluate areas for continued improvement in the Board’s Quality Assurance program and GAO issued its report and recommendations on November 29, 2023. As expected, the findings and recommendations included evaluating potential root causes for declining, but continuing, trends related to unnecessary or improper remands under the AMA that the Board’s Quality Assurance program was consistently identifying. As reported last year, the Board is monitoring the outcomes in cases appealed to the Court and the United States Court of Appeals

for the Federal Circuit to identify any potential trends that may help enhance the Board's Quality Assurance program. The Board will continue its collaboration with VA's OGC and other partners 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 even though that increase may be delayed due to the fact many Veterans are now choosing to "appeal first to VBA" after AMA created that popular option that was not available under the Legacy system of 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 as of August 10, 2022. 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 appeals 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. Doing so will involve system development and enhancements to the Board's existing case management systems and those, in turn, will need to be integrated with systems utilized by VBA and VHA.

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 2023 Information as required by 38 U.S.C. § 7101(d)(2):

38 U.S.C. § 7101(d)(2)(A)

| | |
|--------------------------------------|---------------|
| Number of Legacy net cases received: | 32,018 |
| Number of AMA net cases received: | 69,847 |

38 U.S.C. § 7101(d)(2)(B)

| | |
|---|----------------|
| Cases pending (certified) before the Board at the start of FY 2023: | 209,535 |
| Cases pending (certified) before the Board at the end of FY 2023: | 208,155 |

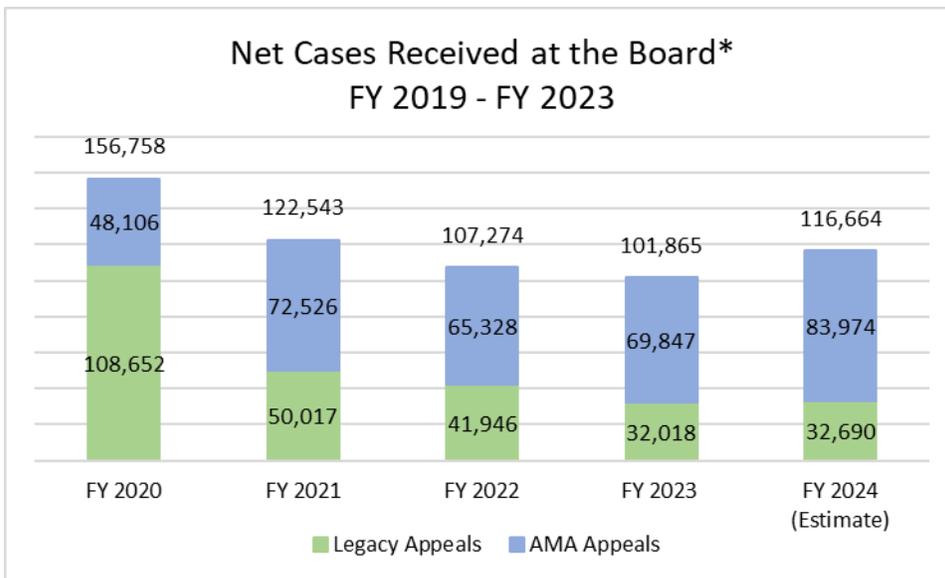
38 U.S.C. § 7101(d)(2)(C)

Number of Substantive Appeals (VA Form 9) filed at the AOJ and cases received at the Board during FY 2023 and each of the 36 preceding months as depicted in the chart below as follows:

| Substantive Legacy Appeals (VA Form 9) Filed* | | | | | Net Cases Received at Board** | | | |
|--|---------------|--------------|------------|------------|-------------------------------|----------------|----------------|----------------|
| Month | FY 2020 | FY 2021 | FY 2022 | FY 2023 | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
| October | 3,575 | 325 | 46 | 43 | 10,762 | 10,446 | 8,451 | 9,462 |
| November | 3,314 | 239 | 38 | 40 | 8,407 | 9,124 | 8,232 | 9,049 |
| December | 3,710 | 175 | 53 | 48 | 8,327 | 10,474 | 7,028 | 8,807 |
| January | 4,520 | 143 | 40 | 33 | 7,439 | 12,022 | 7,568 | 9,705 |
| February | 4,499 | 117 | 44 | 40 | 4,819 | 13,143 | 6,764 | 8,191 |
| March | 5,837 | 121 | 59 | 38 | 8,316 | 14,778 | 9,765 | 9,169 |
| April | 5,294 | 99 | 40 | 23 | 13,075 | 9,562 | 7,444 | 7,505 |
| May | 4,049 | 38 | 54 | 25 | 31,956 | 7,288 | 9,708 | 8,605 |
| June | 1,988 | 43 | 51 | 34 | 22,224 | 9,727 | 10,209 | 7,617 |
| July | 547 | 63 | 26 | 19 | 12,770 | 8,624 | 10,417 | 7,846 |
| August | 439 | 53 | 34 | 16 | 13,093 | 8,305 | 11,673 | 8,022 |
| September | 309 | 34 | 22 | 5 | 15,570 | 9,050 | 10,015 | 7,887 |
| FY Total | 38,081 | 1,450 | 507 | 364 | 156,758 | 122,543 | 107,274 | 101,865 |

* 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 Court. AMA cases are included starting in FY 2019.



* Net case receipts include original appeals, remands, non-VBA receipts, cases returned by the Court, 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 the first full fiscal year post AMA implementation (FY 2020) through the end of FY 2023, approximately 25-30% of Veterans have contested their original claims decisions, of which, 84% have chosen to request further review at VBA for a quicker resolution and 16% have that choose to file an appeal to the Board. In FY 2023, an increasing percentage of Veterans chose a VBA AMA lane, with 86% choosing VBA compared to 14% choosing a Board docket.

38 U.S.C. § 7101(d)(2)(D)

Legacy Appeals

For Legacy appeals decided in FY 2023, 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 2,082 days (5.7 years), an increase of 93 days from FY 2022. 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 a Legacy certified appeal was docketed at the Board to disposition was approximately 537 days in FY 2023. 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** | 503 days | AOJ |
| Statement of the Case Issuance to Substantive Appeal (VA Form 9) Receipt* | Appellant | 42 days | |
| Substantive Appeal (VA Form 9) Receipt to Certification of Appeal* | VBA** | 283 days | |
| From Board Receipt of Certified Appeal to Board Docketing of Appeal* | Board | 198 days | Board |
| Docketing of Certified Appeal to Issuance of Board Decision | Board | 537 days | |
| Average Remand Time Factor | VBA** | 331 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 | 314 | 695 | 927 | 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 2023*: **141**

The number of professional, administrative, clerical, and other personnel employed by the Board in terms of FTE at the end of FY 2023: **1,104**
(not including 141 members above)

*Numbers include VLJs on-board, DVCs, Chairman, Vice Chairman, and Chief Counsel.

38 U.S.C. § 7101(d)(2)(F)

Number of acting members of the Board during FY 2023: **49**

Number of cases in which acting members participated*: **6,657**

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

Number of virtual hearings scheduled under such section 7107 (c)(2)(C): **21,248**

Number of virtual hearings canceled or withdrawn under such section 7107 (c)(2)(C): **3,073**

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 FY 2023 Case Disposition Outcomes for Cases Upon Which a Hearing Had Been Held* | | | | | |
|--|----------------|---------------|---------------|--------------|--------------------|
| Hearing Venue | Allowed | Denied | Remand | Other | Total Cases |
| Central Office | 33% | 17% | 46% | 4% | 659 |
| Video Tele-Conference (RO) | 37% | 17% | 41% | 5% | 8,793 |
| Virtual Tele-Hearing | 43% | 15% | 39% | 3% | 26,878 |

* 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 (that is, 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: **12.98***

* 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 2023 (derived from the number of days worked by acting members throughout the year (3,231 days) divided by the number of working days in the year (249)).

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

As a result of the recently enacted PACT Act, Veterans and survivors can appeal a VBA-issued decision for claims related to toxic exposure. A projected 4% of prior year VBA Compensation PACT related decisions (both grants and denials) were originally

anticipated to appeal directly to the Board, followed by another 9% filing a subsequent appeal of prior year AMA decisions (re-filers). With the exception of appellants that qualify to be AOD due to age, financial hardship, and health, the majority of appeals filed under the PACT Act will be adjudicated in regular docket order with all other Board appeals that are pending or received. Based on current docket selections, it is estimated that 35% of PACT appeals will elect to have a hearing with a VLJ. These cases typically take the longest to resolve because of the extra procedural step, and the judge time and availability.

Projections for FY 2024 and FY 2025

The Board continued to prioritize resources to address pending Legacy appeals and AMA inventories in FY 2023 and issued 103,245 decisions for Veterans, which was 113 over the goal of 103,132 decisions. For the 5th consecutive year, the Board has achieved over 95,000 decisions and has issued a goal of deciding over 111,000 in FY 2024 as it continues to strive to meet Veteran expectations on timeliness. The Board expects that inventory will continue to grow in FY 2024 and FY 2025.

The Board completed FY 2023 with 208,155 appeals pending adjudication, of which 24,145 were Legacy and 184,010 were AMA appeals. The Board has collaborated with VBA and VHA to determine projected claims and subsequent appeals rates in FY 2024 and FY 2025. Based on recent estimates, the Board could receive as many as 116,664 appeals (Legacy and AMA) in FY 2024 and 107,610 in FY 2025. These figures include Legacy appeals, receipts arising from Veterans right to appeal adverse VHA Program of Comprehensive Assistance for Family Caregivers (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 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 59% of the Board's legacy decisions in FY 2023 required a remand to the AOJ for additional development. Estimates from VBA coupled with projected Court remands show the Board could receive approximately 33,000 Legacy cases in FY 2024 and approximately 20,750 in FY 2025.

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 2024: Cases appealed to the Board: **32,690 - Legacy**
83,974 - AMA

FY 2025: Cases appealed to the Board: **20,751 - Legacy**
86,859 - 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:

$$\frac{\text{FY 2023 decisions (103,245) (divided by)}}{249 \text{ workdays}} = \mathbf{414.6 \text{ decisions per workday}}$$

$$\frac{\text{Cases pending end of FY 2023 (208,155) + New cases expected in FY 2024 (116,664)}}{249 \text{ workdays}} = \mathbf{324,819 \text{ total workload in FY 2024}}$$

$$\frac{\text{Total workload (324,819) (divided by)}}{\text{Decisions per workday (414.6)}} = \mathbf{783.5 \text{ workdays}}$$

$$\frac{\text{Workload days (783.5) (divided by)}}{249 \text{ workdays per year}} = \mathbf{3.1 \text{ years}}$$

$$\text{Workload years (3.1) x 12 (months)} = \mathbf{37 \text{ months}^*}$$

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

VA Operations Board Measures

VA implemented the VA Operations Board (VAOB) measures in FY 2023. The VAOB is VA's executive level governance group responsible for tracking performance measures at the operational level and for discussing high-visibility issues, assessing program progress, resolving performance problems, and assisting 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 part 1 of this report.

| Board of Veterans' Appeals Veterans Affairs Operations Board Productivity Measure – FY 2023 | | | | | |
|--|------------------------|---|-----------------|----------------|----------------------------|
| | Appeals Decided | Average Days to Complete from Notice of Disagreement | | | Board's Trust Score |
| | | Direct Review | Evidence | Hearing | |
| Oct | 6,912 | 405 | 442 | 749 | 49.0% |
| Nov | 8,018 | 362 | 391 | 647 | 49.1% |
| Dec | 7,335 | 289 | 365 | 630 | 46.0% |
| Jan | 8,140 | 303 | 388 | 651 | 43.4% |
| Feb | 8,120 | 268 | 369 | 690 | 47.3% |
| Mar | 10,056 | 291 | 399 | 864 | 47.3% |
| Apr | 6,711 | 297 | 432 | 1,007 | 47.0% |
| May | 10,096 | 300 | 426 | 974 | 51.1% |
| Jun | 8,205 | 293 | 432 | 1,034 | 48.9% |
| Jul | 8,183 | 299 | 827 | 1,044 | 51.2% |
| Aug | 10,802 | 328 | 1,028 | 1,057 | 49.7% |
| Sep | 10,667 | 329 | 1,077 | 1,059 | 52.8% |
| Year End | 103,245 | 314 | 695 | 927 | 48.9% |

In FY 2023, the Board increased the annual AMA appeals decisions as a percentage of completed workload (32% as opposed to 25%). As the Board continues to adjudicate a higher proportion and number of AMA appeals, this will result in completion of those AMA appeals that have been pending the longest and a decrease in the percentage of completions that are AOD. For FY 2023, the percentages of decisions AOD were 77% for Direct, 58% for Evidence, and 52% for Hearing. For a period of time, this will increase the average days to complete appeals to levels that exceed the stated timeliness goals.

FY 2023 AMA Statistics

| | Direct Review | Evidence Submission | Hearing | Total |
|---|----------------------|----------------------------|----------------|--------------|
| AMA Net Case Receipts | 31,471 | 13,758 | 24,618 | 69,847 |
| Pending Inventory of AMA Cases (at end of FY 2023) | 66,719 | 36,208 | 81,083 | 184,010 |
| AMA Decisions Dispatched | 8,931 | 6,136 | 17,594 | 32,661 |
| Average Days to Complete AMA Decision (from Notice of Disagreement) | 314 | 695 | 927 | 716 |

| | | | | |
|------------------------------|-------|-------|--------|--------|
| Number of AMA Issues Decided | | | | |
| Allowed | 4,802 | 4,348 | 11,775 | 20,925 |
| Denied | 7,047 | 4,845 | 10,204 | 22,096 |
| Remanded | 6,863 | 5,328 | 14,703 | 26,894 |
| Other | 2,709 | 2,279 | 9,723 | 14,711 |

ADDITIONAL INFORMATION

Congressional Tracking Reports

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

Case Subject: 2023 Congressional Tracking Report (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.

The reporting on this CTR is included in parts I and II of this report, along with being incorporated into other Congressional reporting requirements (Periodic Progress Report on Appeals P.L.115-55 section 3). In addition, here is a brief summation:

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. Details regarding the current average days pending and average days to complete AMA appeals at the Board is updated quarterly on the Board's website (https://www.bva.va.gov/Quarterly_Reports.asp), along with what the Board is doing to improve wait times (<https://www.bva.va.gov/decision-wait-times.asp>). In addition, the Board's planned steps to improve efficiency are detailed on page 38 in part I of this annual report, under the section titled, "Strategic Plan and Priorities for FYs 2024 and 2025."

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 proposed FY 2024 budget will enable the Board to fund the personnel needed to reach its target goal to decide 111,000 appeals during FY 2024. 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 VLJs for adjudication.

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. The Board is currently projecting approximately 83,974 AMA appeal receipts in FY 2024 and 86,859 in FY 2025 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 and address wait times.

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

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

Case Owner Name: OM-041

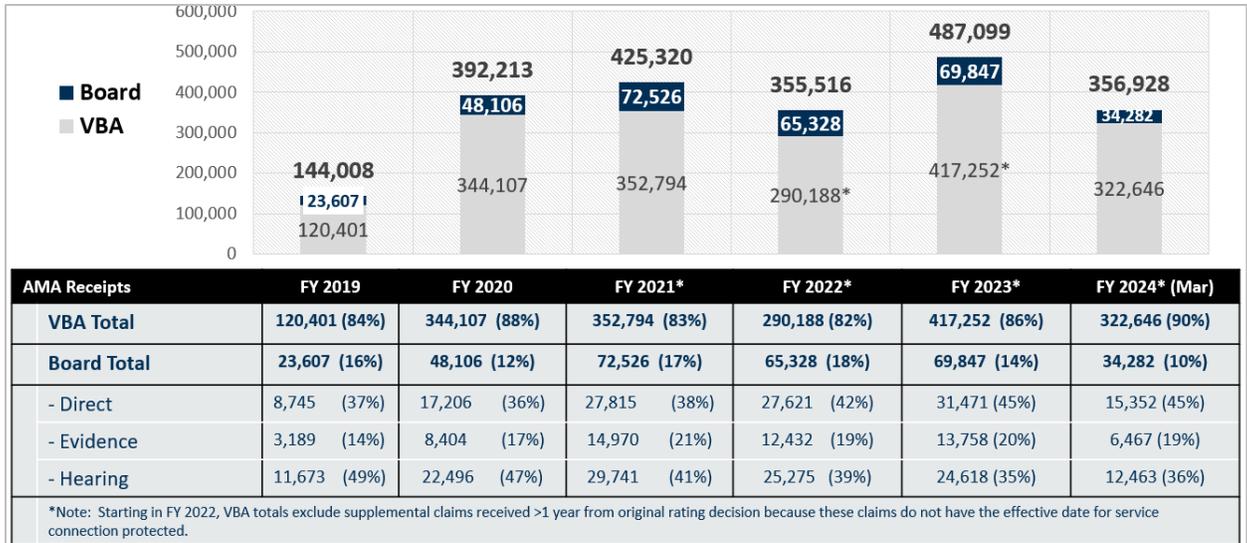
Description: Evaluating Execution of the Appeals Modernization Act–The agreement directs the Department to provide a report to the Committees within 90 days of enactment of this Act on: (1) its analysis of why more Veterans choose to skip a quicker review by VBA; (2) its plan to educate Veterans on quicker 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 matters is included on pages 25-28 of this annual report, including accompanying analysis and summary of issues impacting Veteran choice and experience under the AMA. Number 4 is addressed on page 38 in part I of this annual report, under the section titled, “Strategic Plan and Priorities for FYs 2023 and 2024.” Additionally, the Board has incorporated the report for this CTR into other Congressional reporting requirements (Periodic Progress Report on Appeals P.L.115-55 section 3).

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 HLR 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.

The figure on page 51 shows that since AMA implementation through the end of FY 2023, approximately 25-30% of Veterans have contested their original claims decisions, of which, an overwhelming majority (approximately 84%) have chosen to file a supplemental claim or request for higher-level review at VBA for a quicker resolution and about 16% have chosen to file an appeal to the Board.



Although the number of VBA’s AMA appeals in HLR and supplemental claims have increased, the percentage of docketed AMA appeals at the Board has trended downwards during that same period as shown in Table 4 in part I of this report.

2) VA (VBA and the Board) continues to promote, educate, train, and inform Veterans and stakeholders about AMA, focused on choice, control, and clarity for the Veteran. The Board continued extensive VSO research this past year. The Chairman, Vice Chairman, and VLJs have attended and spoken in person at VSO conferences, educating hundreds of representatives on best practices to advise Veterans about their choices under the AMA. Additionally, VA continues to publish updated materials and information on its website where stakeholders and Veterans can review information on AMA and the options they have for choosing which review option is best for them. Resources include the following:

- 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 8-9% of the Board’s decisions are appealed to the Court. 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, the Court grants a joint motion for remand, agreed to by VA Office of General Counsel attorneys, sending select issues from appealed cases back to the Board so the VLJ can further explain the reasons and bases supporting the judge’s denial. This is not legal error as to whether the claimant is

entitled to the benefit, 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 Court are "Clerk" dispositions based on VA counsel's agreement to remand 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 2023, the Board received approximately 5,310 JMRs from the Court.

Many Board hearings end with a plea for a remand if the evidence does not support a grant of the appeal. In FY2023, the Board remanded 129,964 (103,070–Legacy and 26,894–AMA) of the total 299,503 issues decided. For current Legacy appeals returned to the Board after remand, 53% of them have been remanded at least twice, 27% have been remanded 3 times or more, 15% have been remanded at least 4 times, and 8% have been remanded 5 times or more.

- 4) As noted in the August 2023 Periodic Progress Report on Appeals, VA is working on plans to study and better understand root causes for remands and enhance an enterprise-wide recognition that remands provide Veterans no final answers on their appeals and can cause unnecessary delays. Additionally, the Board has conducted Board-wide training on AMA remands, including identifying the bases for remand in the AMA, avoiding pitfalls when remanding in the AMA and recognizing additional circumstances where remands are proper. The Board closely monitors errors identified by its OAI and uses that data to target focused Board-wide training and guidance.

| Number of Legacy Notices of Disagreement Received in the Field | | | | |
|---|----------------|----------------|----------------|----------------|
| Month | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
| October | 2,613 | 24 | 3 | 45 |
| November | 1,989 | 22 | 4 | 30 |
| December | 1,387 | 14 | 26 | 50 |
| January | 1,183 | 5 | 87 | 47 |
| February | 392 | 4 | 142 | 27 |
| March | 58 | 3 | 216 | 32 |
| April | 49 | 3 | 266 | 13 |
| May | 54 | 4 | 188 | 21 |
| June | 33 | 5 | 93 | 12 |
| July | 54 | 3 | 13 | 10 |
| August | 25 | 2 | 5 | 5 |
| September | 17 | 2 | 2 | 1 |
| FY Total | 7,854 | 91 | 1,045 | 293 |

Legacy Dispositions by Representation FY 2023

| REPRESENTATION | ALLOWED | | REMANDED | | DENIED | | OTHER | | TOTAL | |
|------------------------------------|---------------|--------------|---------------|--------------|---------------|--------------|--------------|-------------|---------------|------------------|
| | No. | Percent | No. | Percent | No. | Percent | No. | Percent | No. | Percent of Total |
| Agent | 597 | 33.2% | 758 | 42.1% | 326 | 18.1% | 119 | 6.6% | 1,800 | 2.6% |
| American Legion | 3,165 | 30.2% | 5,153 | 49.2% | 1,691 | 16.2% | 458 | 4.4% | 10,467 | 14.8% |
| AMVETS | 83 | 34.9% | 93 | 39.1% | 50 | 21.0% | 12 | 5.0% | 238 | 0.3% |
| Attorney | 7,779 | 40.6% | 7,489 | 39.1% | 2,518 | 13.1% | 1,378 | 7.2% | 19,164 | 27.2% |
| Disabled American Veterans | 3,616 | 31.7% | 5,170 | 45.4% | 2,111 | 18.5% | 500 | 4.4% | 11,397 | 16.1% |
| Military Order of the Purple Heart | 2 | 20.0% | 5 | 50.0% | 3 | 30.0% | 0 | 0.0% | 10 | 0.0% |
| No Representation | 2,074 | 29.3% | 3,006 | 42.5% | 1,526 | 21.6% | 466 | 6.6% | 7,072 | 10.0% |
| Other | 335 | 31.4% | 500 | 46.9% | 154 | 14.4% | 77 | 7.2% | 1,066 | 1.5% |
| Paralyzed Veterans of America | 94 | 35.6% | 115 | 43.6% | 30 | 11.4% | 25 | 9.5% | 264 | 0.4% |
| State Service Organizations | 3,651 | 30.9% | 5,331 | 45.1% | 2,236 | 18.9% | 607 | 5.1% | 11,825 | 16.8% |
| Veterans of Foreign Wars | 1,887 | 32.4% | 2,618 | 44.9% | 1,074 | 18.4% | 250 | 4.3% | 5,829 | 8.3% |
| Vietnam Veterans of America | 350 | 32.7% | 486 | 45.5% | 144 | 13.5% | 89 | 8.3% | 1,069 | 1.5% |
| Wounded Warrior Project | 109 | 28.5% | 167 | 43.6% | 90 | 23.5% | 17 | 4.4% | 383 | 0.5% |
| GRAND TOTAL | 23,742 | 33.6% | 30,891 | 43.8% | 11,953 | 16.9% | 3,998 | 5.7% | 70,584 | 100.0% |

Legacy Dispositions by VA Program FY 2023

| REPRESENTATION | ALLOWED | | REMANDED | | DENIED | | OTHER | | TOTAL | |
|---------------------------|---------------|--------------|---------------|--------------|---------------|--------------|--------------|-------------|---------------|------------------|
| | No. | Percent | No. | Percent | No. | Percent | No. | Percent | No. | Percent of Total |
| BVA Original Jurisdiction | 6 | 9.5% | 3 | 4.8% | 34 | 54.0% | 20 | 31.7% | 63 | 0.1% |
| Compensation | 23,325 | 33.9% | 30,287 | 44.0% | 11,414 | 16.6% | 3,788 | 5.5% | 68,814 | 97.5% |
| Education | 27 | 13.6% | 66 | 33.2% | 92 | 46.2% | 14 | 7.0% | 199 | 0.3% |
| Fiduciary | 1 | 16.7% | 3 | 50.0% | 0 | 0.0% | 2 | 33.3% | 6 | 0.0% |
| Insurance | 1 | 33.3% | 2 | 66.7% | 0 | 0.0% | 0 | 0.0% | 3 | 0.0% |
| Loan Guaranty | 2 | 8.3% | 7 | 29.2% | 13 | 54.2% | 2 | 8.3% | 24 | 0.0% |
| Medical | 116 | 27.1% | 140 | 32.7% | 104 | 24.3% | 68 | 15.9% | 428 | 0.6% |
| Multiple Program Areas | 204 | 42.2% | 196 | 40.6% | 57 | 11.8% | 26 | 5.4% | 483 | 0.7% |
| NCA Burial Benefits | 1 | 16.7% | 2 | 33.3% | 3 | 50.0% | 0 | 0.0% | 6 | 0.0% |
| Other Program | 6 | 9.0% | 25 | 37.3% | 25 | 37.3% | 11 | 16.4% | 67 | 0.1% |
| Pension | 44 | 11.3% | 128 | 32.7% | 171 | 43.7% | 48 | 12.3% | 391 | 0.6% |
| Unspecified Program Area | 0 | 0.0% | 1 | 7.7% | 2 | 15.4% | 10 | 76.9% | 13 | 0.0% |
| VBA Burial Benefits | 3 | 11.1% | 2 | 7.4% | 20 | 74.1% | 2 | 7.4% | 27 | 0.0% |
| VR&E | 6 | 11.3% | 29 | 54.7% | 18 | 34.0% | 7 | 11.7% | 53 | 0.1% |
| GRAND TOTAL | 23,742 | 33.6% | 30,891 | 43.8% | 11,953 | 16.9% | 3,998 | 5.7% | 70,584 | 100.0% |

AMA Dispositions by VA Program FY 2023

| REPRESENTATION | ALLOWED | | REMANDED | | DENIED | | OTHER | | TOTAL | |
|------------------------|---------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|------------------|
| | No. | Percent | No. | Percent | No. | Percent | No. | Percent | No. | Percent of Total |
| Compensation | 11,925 | 39.6% | 8,063 | 26.7% | 5,005 | 16.6% | 5,157 | 17.1% | 30,150 | 92.3% |
| Education | 11 | 17.7% | 9 | 14.5% | 23 | 37.1% | 19 | 30.6% | 62 | 0.2% |
| Fiduciary | 0 | 0.0% | 2 | 22.2% | 3 | 33.3% | 4 | 44.4% | 9 | 0.0% |
| Insurance | 1 | 14.3% | 3 | 42.9% | 2 | 28.6% | 1 | 14.3% | 7 | 0.0% |
| Loan Guaranty | 4 | 36.4% | 3 | 27.3% | 2 | 18.2% | 2 | 18.2% | 11 | 0.0% |
| Multiple Program Areas | 56 | 48.3% | 31 | 26.7% | 19 | 16.4% | 10 | 8.6% | 116 | 0.4% |
| NCA Burial Benefits | 2 | 33.3% | 1 | 16.7% | 2 | 33.3% | 1 | 16.7% | 6 | 0.0% |
| Pension | 284 | 30.7% | 247 | 26.7% | 287 | 31.0% | 108 | 11.7% | 926 | 2.8% |
| VHA | 89 | 6.7% | 794 | 59.5% | 88 | 6.6% | 364 | 27.3% | 1,335 | 4.1% |
| VR&E | 2 | 5.1% | 6 | 15.4% | 11 | 28.2% | 20 | 51.3% | 39 | 0.1% |
| GRAND TOTAL | 12,374 | 37.9% | 9,159 | 28.0% | 5,442 | 16.7% | 5,686 | 17.4% | 32,661 | 100.0% |

Legacy Decisions*

| Fiscal Year | Decisions | Allowed | Remanded | Denied | Other |
|-------------|-----------|---------|----------|--------|-------|
| 2020 | 85,461 | 33.8% | 40.6% | 20.3% | 5.3% |
| 2021 | 79,227 | 32.0% | 40.4% | 21.5% | 6.1% |
| 2020 | 85,461 | 33.8% | 40.6% | 20.3% | 5.3% |
| 2023 | 70,584 | 33.6% | 43.8% | 16.9% | 5.7% |

AMA Decisions*

| Fiscal Year | Decisions | Allowed | Remanded | Denied | Other |
|-------------|-----------|---------|----------|--------|-------|
| 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% |
| 2023 | 32,661 | 37.9% | 28.0% | 16.7% | 17.4% |

* 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 20 and 21 on page 29 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 |
| 2023 | 70,584 | 23,742 | 13,058 | 10,684 | 30,891 | 11,953 | 3,998 |
| Percent | 100% | 33.6% | 18.5% | 15.1 % | 43.8% | 16.9% | 5.7% |

| Legacy Issues – Decided | | | | | | |
|-------------------------|-----------------------|------------------------------|--------------------------|----------|--------|--------|
| Fiscal Year | Legacy Issues Decided | Allowed (not new & material) | Allowed (new & material) | Remanded | Denied | Other |
| 2023 | 214,886 | 35,337 | 7,078 | 103,079 | 54,006 | 15,386 |
| Percent | 100% | 16.4% | 3.3% | 48.0% | 25.1% | 7.2% |

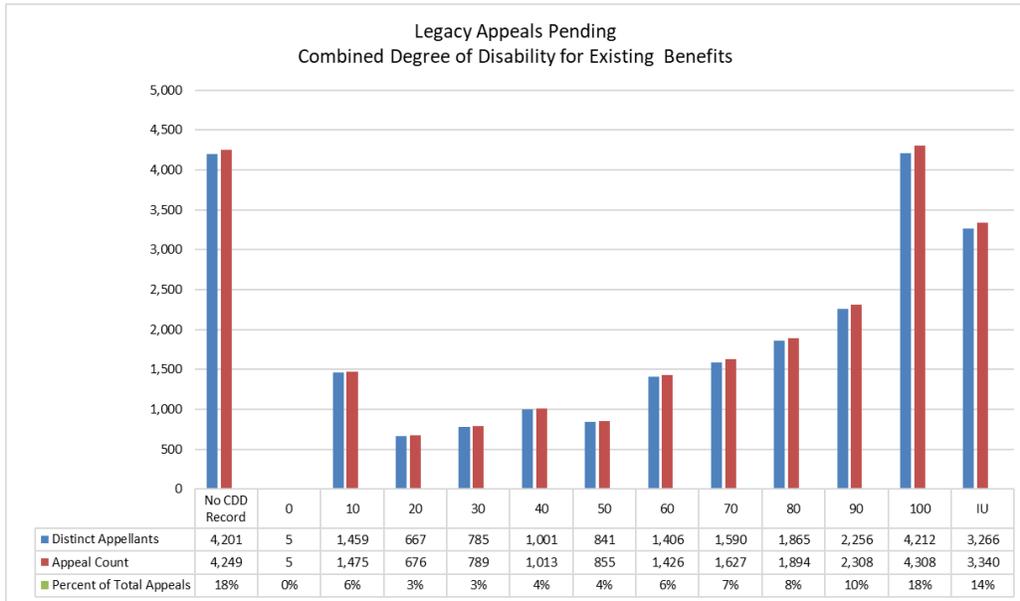
In FY 2023, the Board dispatched 70,584 Legacy appeal decisions. Of those Legacy decisions, 13,058 were allowances with no remanded issues, 11,953 were denials, and 3,998 were “other” dispositions, such as dismissals, for a total of 29,009 Legacy appeals decided with no remanded issues. There were 41,575 Legacy appeals decided with at least one remanded issue (10,684 allowances with at least one remanded issue + 30,891 remands). The number of Legacy appeals with at least one remanded issue (41,575), divided by the total number of appeals decided (70,584), results in approximately 59% of cases being remanded to the agency of original jurisdiction.

Combined Degree of Disability for Existing Benefits*

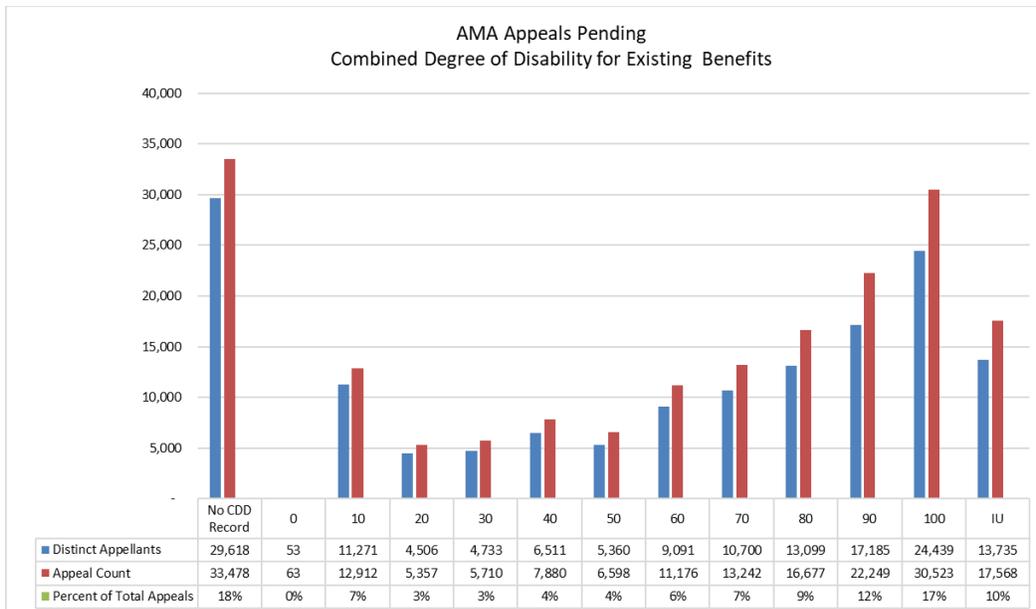
Veterans may receive disability compensation ratings ranging from 0% to 100%. This information in the graph on page 57 reflects, at the end of FY 2023, the combined disability rating for Veterans with appeals pending at the Board. As of September 30, 2023, the Board’s inventory of Legacy appeals contained 23,554 total distinct appellants and 23,965 appeals. For AMA appeals, the Board’s inventory contained 150,301 total distinct appellants and 183,433 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 51% of the returned Legacy remands (Post Remand and Court) pending at the Board at the end of FY 2023 have been remanded by the Board to the agency of original jurisdiction two or more times.



Note: Board of Veterans' Appeals pending inventory as of September 30, 2023. Includes appeals: certified in advance status; activated at the Board; and remands returned to the Board.

Board Operating Statistics

| | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
|---|----------------|----------------|----------------|----------------|
| Decisions | 102,663 | 99,721 | 95,294 | 103,245 |
| Legacy cases formally appealed to the Board (Substantive Appeal (VA Form 9 filed)) | 38,081 | 1,450 | 507 | 364 |
| Net Cases Received at Board/Certified to the Board** | 156,758 | 122,543 | 107,274 | 101,865 |
| Cases Pending* | 174,733 | 197,555 | 209,535 | 208,155 |
| Legacy Hearings Held | 13,686 | 18,354 | 20,418 | 6,464 |
| AMA Hearings Held | 1,983 | 5,423 | 9,671 | 12,970 |
| Total Hearings Held | 15,669 | 23,777 | 30,089 | 19,434 |
| Decisions per FTE | 88.75 | 84.37 | 80.62 | 82.93 |
| Board FTE | 1,157 | 1,182 | 1,182 | 1,245 |
| Board Cycle Time (Legacy decisions)*** | 333 | 297 | 439 | 559 |
| Cost per Case | \$1,817 | \$2,025 | \$2,311 | \$2,351 |

* Case receipts include original appeals, remands, Court, 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.