



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
CENTER FOR DISABILITY SERVICES ENDOWMENT FUND,
INC.**

AS OF December 31, 2020

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: March 21, 2022

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

OF THE

CENTER FOR DISABILITY SERVICES ENDOWMENT FUND, INC.

AS OF

DECEMBER 31, 2020

DATE OF REPORT:

MARCH 21, 2022

EXAMINER:

ADELIA GBADAMOSI

TABLE OF CONTENTS

<u>ITEM</u>		<u>PAGE NO.</u>
1.	Executive summary	2
2.	Scope of examination	3
3.	Description of Fund	4
	A. History	4
	B. Structure	4
	C. Assets under the Board of Directors	4
	D. Third-party payment service provider	4
4.	Investment review	5
	A. Investment policy statement	5
	B. Monitoring	5
5.	Assets and liabilities summary	7
6.	Treatment of annuitants	8
7.	Summary and conclusions	9

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

October 20, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 32215 dated April 19, 2021 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Center for Disability Services Endowment Fund, Inc. The Fund's home office is located at 22 Corporate Woods Boulevard, 5th Floor, Albany, New York, NY 12211.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials. (See item 4A of this report)

The examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes. (See item 4B of this report)

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the December 31, 2020 filed annual statement. (See item 5 of this report)

The Fund violated New York Insurance Law § 1110(a) by using a gift annuity agreement form that differed from the gift annuity agreement forms that were on file with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (See item 6 of this report)

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued. (See item 6 of this report)

2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' ("Department" or "DFS") examination and assessment of the Center for Disability Services Endowment Fund, Inc. Segregated Annuity Fund (the "Fund") through which the Center for Disability Services Endowment Fund, Inc. (the "Corporation") provides annuity benefits.

This is the first examination of the Fund since it received its special permit to issue gift annuity agreements in 2016. This examination covers the period from October 17, 2016 through December 31, 2020. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2020, but prior to the date of this report (i.e., the completion date of the examination).

This report outlines DFS's supervisory expectations or priorities and articulates DFS's general views regarding the exceptional circumstances where the Corporation or Fund, in relation to their annuity activities, could have better satisfied statutory standards or to adhered to practices or methods of dealing that are regularly observed among similar circumstances.

The Fund is subject to the solvency and examination requirements of New York Insurance Law § 1110 and of New York Insurance Law articles 1, 2, 3, 25, and 74.

The investment of the Fund's required admitted assets is subject to N.Y. Estates, Powers and Trust Law § 11-2.3. The investment of the remainder of the Fund's admitted assets is subject to N.Y. Not-for-Profit Corporation Law Article 5-a. Both establish that the trustees are to invest the assets consistent with prudent person standards.

The examination comprised a verification of assets and liabilities as of December 31, 2020, to determine whether the Fund's filed 2020 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification.

3. DESCRIPTION OF FUND

A. History

The Center for Disability Services Endowment Fund, Inc. was chartered in 2005 under the New York Not-For-Profit Law. It is an affiliate of the Center for Disability Services Holding Corporation (CFDSHC), a New York Not-For-Profit corporation that operates a pediatric nursing home under Article 28 of the Public Health Law which controls the Corporation through the appointment of its board of directors. The purpose of the Corporation is to support the mission and CFDSHC and its affiliates by raising, collecting and managing funds for them, soliciting contributions, bequests and other forms of charitable gifts, receiving and managing grants, bequests, devices and other forms of gifts, and/or transfers; and managing, investing and disbursing the funds of the Corporation. The Corporation established the Fund to issue gift annuity agreements in return for gifts from donors in 2016. The Superintendent of Financial Services granted to the Corporation a Charitable Annuity Society special permit on October 17, 2016.

B. Structure

The management of the Corporation and all of its affairs and property are entrusted to a board of directors.

C. Assets under the Board of Directors

As of the December 31, 2020 audited financial statement, the Corporation's Board of Directors oversaw an endowment comprising \$7,770,264 in total assets. The Fund, as of December 31, 2020, held total admitted assets of \$169,023.

D. Third-Party Payment Service Provider

Key Bank National Association (Key Bank) is the Fund's custodian. Key Bank maintains and invests the assets, issues income payments and quarterly statements. Olbricht Kiley Group prepares the Fund's annual statements.

4. INVESTMENT REVIEW

A. Investment Policy Statement

New York Estate Powers and Trust Law § 11-2.3(b)(3)(A) requires trustees to “pursue an overall investment strategy to enable the trustee[s] to make appropriate present and future distributions to or for the benefit of the beneficiaries under the governing instrument, in accordance with risk and return objectives reasonably suited to the entire portfolio.”

New York Not-for-Profit Corporation Law § 552(e)(2) requires institutions to adopt “an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.” New York Not-for-Profit Corporation Law § 552(f) provides that each “institution shall adopt a written investment policy setting forth guidelines on investments ... and delegation of management and investment functions in accord with the standards of this article.”

Key Bank is also the Fund’s investment adviser and custodian.

The Corporation prepared and provided a form investment policy statement (“IPS”) to the Fund that the Fund provided to the Department as its adopted IPS.

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.

B. Monitoring

The implementation of the IPS was left to the Investment Adviser’s discretion.

New York Estate Powers and Trust Law § 11-2.3(c)(1) requires trustees to exercise care, skill and caution in periodically reviewing the delegee’s exercise of the delegated function and compliance with the scope and terms of the delegation.

New York Not-for-Profit Corporation Law § 554(a)(3) provides that, when delegating investment functions, an institution must monitor its agents’ performance and compliance with the scope and terms of each’s respective delegation. In so doing, the institution must use the care that an ordinarily prudent person in a like position would exercise under similar circumstances.

The examiner reviewed the board of directors’ minutes to determine whether the board had been provided with a report concerning the Fund’s investment of required admitted assets. The

minutes did not contain any indication that the board was provided with a report concerning the Fund's investment of required admitted assets.

The examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.

5. ASSETS AND LIABILITIES SUMMARY

The following summary table indicates the growth in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2017</u>	<u>December 31,</u> <u>2020</u>	<u>Increase</u>
Admitted assets	\$ <u>125,747</u>	\$ <u>169,023</u>	\$ <u>43,276</u>
Liabilities	\$ <u>20,891</u>	\$ <u>57,073</u>	\$ <u>23,182</u>
Minimum required fund balance	\$100,000	\$100,000	\$ 0
Excess fund balance (surplus)	<u>4,856</u>	<u>11,950</u>	<u>7,094</u>
Total annuity fund balance	\$ <u>104,856</u>	\$ <u>111,950</u>	\$ <u>7,094</u>
Total liabilities and annuity fund balance	\$ <u>125,747</u>	\$ <u>169,023</u>	\$ <u>43,276</u>

The increase in assets, liabilities and annuity fund balance is attributable to the change in fair market value of investments and annuities in force. Annuities increased from 1 with annual payment amounts of \$1,432 as of December 31, 2017 to a total of 2 with annual payment amounts of \$3,552 as of December 31, 2020.

The Fund's admitted assets, as of December 31, 2020, were entirely invested in money market mutual funds (100%).

6. TREATMENT OF ANNUITANTS

The examiner reviewed a sample of annuity files to determine whether the annuitants were treated fairly and in accordance with the provisions of the annuity agreements. The examination also consisted of a review of the various controls involved, a check of the accuracy of the computations and the tracing of accounting data to the books of account.

Section 1110(a) of the New York Insurance Law states, in part:

“. . . Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants . . .”

The examiner’s review of a sample of 2 newly issued gift annuities by the Fund during the examination period noted that in 1 newly issued annuity, the Fund used a form that differed from the gift annuity agreements filed with the Superintendent. The deviating form number found in the sample is S.ENDOWMENTFUND.WilliamSuzannePalmerGiftAnnuityAgreement.12.19.17.

The Fund violated New York Insurance Law § 1110(a) by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

The examiner reviewed a sample of new gift annuities issued by the Fund during the examination period. In the sample selected, the examiner noted that 1 out of the 2 newly issued gift annuities reviewed had a contract which did not have the appropriate form number as approved by the Superintendent printed on the form.

The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.

7. SUMMARY AND CONCLUSIONS

Following are the violation and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.	5
B	The examiner recommends that the board of directors, or a committee thereof, be provided, at least annually, with a report concerning the Fund's investment of required admitted assets and note such in the minutes.	6
C	The Fund violated New York Insurance Law § 1110(a) by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent.	8
D	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	8
E	The examiner recommends that the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued.	8

Respectfully submitted,

/s/
Adelia Gbadamosi
Senior Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

ADELIA GBADAMOSI, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

/s/
Adelia Gbadamosi

Subscribed and sworn to before me
this _____ day of _____

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

ADELIA GBADAMOSI

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
CENTER FOR DISABILITY SERVICES ENDOWMENT FUND, INC.***

and to make a report to me in writing of the condition of said

FUND

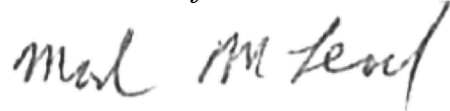
with such other information as she shall deem requisite.

*In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York*

this 19th day of April, 2021

*LINDA A. LACEWELL
Superintendent of Financial Services*

By:



*MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU*

