



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
LE MOYNE COLLEGE
AS OF December 31, 2020**

EXAMINER: Manish Gera

DATE OF REPORT: July 28, 2022

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

June 6, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32222, 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 Le Moyne College. The Fund's home office is located at 1419 Salt Springs Road, Syracuse, NY 13214.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund consistently use the name that appears on its board resolution as part of its permit application to the Department in all its operations. (See item 3E of this report)

The examiner recommends that the Fund uses on all annuity benefit checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York. (See item 3E of this report)

The examiner recommends that the Fund adopt an Investment Policy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS's risk, return, and time horizon objectives. (See item 4A of this report)

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 delegates 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 Trustees, 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 recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract. (See item 6 of this report)

B. Monitoring

The examiner reviewed the Board of Trustees 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 Trustees, 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 (decline) in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	<u>December 31,</u> <u>2015</u>	<u>December 31,</u> <u>2020</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$685,182</u>	<u>\$802,667</u>	<u>\$117,485</u>
Liabilities	<u>\$559,856</u>	<u>\$453,849</u>	<u>\$106,007</u>
Minimum required fund balance	\$ 55,986	\$ 45,385	\$ (10,601)
Excess fund balance (surplus)	<u>69,340</u>	<u>303,433</u>	<u>234,093</u>
Total annuity fund balance	<u>\$125,326</u>	<u>\$348,818</u>	<u>\$223,492</u>
Total liabilities and annuity fund balance	<u>\$685,182</u>	<u>\$802,667</u>	<u>\$117,485</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 11 with annual payment amounts of \$70,486 as of December 31, 2015, to a total of 12 with annual payment amounts of \$60,971 as of December 31, 2020.

The Fund's admitted assets, as of December 31, 2020, were invested mainly in equity securities (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.

The examiner's review of a sample of 2 annuity contracts terminated revealed that in 1 of the 2 cases (50%) reviewed, the Fund failed to obtain a copy of the death certificate to confirm termination of the annuity contract.

The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments contained in the prior report on examination and the subsequent actions taken by the Fund in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the board of trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.</p> <p>The Fund has not complied with the recommendation. A similar recommendation appears in this report on examination.</p>
B	<p>The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and reconcile such advices to the monthly statements provided by the custodian.</p> <p>The Fund has complied with the recommendation.</p>
C	<p>The examiner recommends that the Fund diversify its investment holdings.</p> <p>The Department no longer offers specific guidance for diversification.</p>
D	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement. Such a Statement should refer to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS's risk, return, and time horizon objectives.</p> <p>The Fund adopted an Investment Policy Statement, but that statement failed to include a reference to the prudent investor standard.</p>

<u>Item</u>	<u>Description</u>
E	<p>The examiner recommends that the Fund use the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.</p> <p>The Fund has not complied with the recommendation. A similar recommendation appears in this report on examination.</p>
F	<p>The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.</p> <p>The examiner noted no new discrepancies during his review.</p>

8. 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 consistently use the name that appears on its board resolution as part of its permit application to the Department in all its operations.	5
B	The examiner recommends that the Fund uses on all annuity benefit checks the name it agreed to by board resolution as part of its permit application to the Department for a special permit to issue charitable gift annuities in New York.	5
C	The examiner recommends that the Fund adopt an Investment Policy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. The Fund should exercise reasonable care, skill and caution to make and implement investment and management decisions as a prudent investor would for the entire portfolio. In doing so, the Fund should take into account present and future distributions to or for the beneficiaries and create a plan to meet the needs of those distributions to establish the ISS's risk, return, and time horizon objectives.	6
D	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.	6
E	The examiner recommends that the Board of Trustees, 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.	7

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
F	The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a death certificate or other reliable documentary evidence that supports such information terminating an annuity contract.	9

Respectfully submitted,

_____/s/
Manish Gera
Insurance Examiner

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

MANISH GERA, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

_____/s/
Manish Gera

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 32222

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:*

MANISH GERA

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
LE MOYNE COLLEGE***

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

FUND

with such other information as he 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

