



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
EMMA WILLARD SCHOOL  
AS OF December 31, 2019**

**EXAMINER: Manish Gera**

**DATE OF REPORT: December 18, 2020**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

January 3, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32157, dated October 29, 2020 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Emma Willard School. The Fund's home office is located at 285 Pawling Avenue, Troy, NY 12180.

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 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's review of the Fund's treatment of annuitants did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Fund. (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 Emma Willard School Segregated Annuity Fund (the "Fund") through which Emma Willard School (the "School") provides annuity benefits.

The prior examination was conducted as of December 31, 2014. This examination covers the period from January 1, 2015 through December 31, 2019. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2019 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 School 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, 2019 to determine whether the Fund's filed 2019 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification. The examiner also reviewed the corrective actions taken by the Fund with respect to the violations, recommendations and/or comments contained in the prior report on examination. The results of such review are contained in item 7 of this report.

### 3. DESCRIPTION OF FUND

#### A. History

The Emma Willard School was chartered in 1819 and is organized for the purpose of benefiting young women from as rigorous an education as the best available to young men. The School established the Fund to issue gift annuity agreements in return for gifts from donors in 2010. The Superintendent of Insurance granted to the School a Charitable Annuity Society special permit on April 8, 2010.

#### B. Structure

The management of the School and the Fund and all of its affairs and property are entrusted to a board of trustees. The School reconciles the Fund's account statement to its general ledger and administers donor relations with the annuitants.

#### C. Assets under the Board of Trustees

As of the June 30, 2019 IRS Form 990, the School's Board of Trustees oversaw an endowment comprising \$105,569,594 in total assets. The Fund, as of December 31, 2019, held total admitted assets of \$774,307.

#### D. Third-Party Payment Service Provider

KeyBank National Association ("KeyBank") is the Fund's custodian and investment manager. KeyBank performs administrative functions on behalf of the Fund, including donor recordkeeping, tax reporting, production of all federal tax forms (1099), production of gift annuity reserve reports, Financial Accounting Standards Board ("FASB") reports, and performance measurement and reporting on behalf of the Fund. OS 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) calls for “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) states 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 the Fund’s investment adviser and custodian.

The School prepared and provided an investment policy statement (“IPS”) to the Fund. The Fund adopted that statement as its 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 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 & 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>2014</u>	<u>December 31,</u> <u>2019</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$648,271</u>	<u>\$774,307</u>	<u>\$126,036</u>
Liabilities	<u>\$376,122</u>	<u>\$444,391</u>	<u>\$ 68,269</u>
Minimum required fund balance	\$ 37,612	\$ 44,439	\$ 6,827
Excess fund balance (surplus)	<u>234,537</u>	<u>285,477</u>	<u>50,940</u>
Total annuity fund balance	<u>\$272,149</u>	<u>\$329,916</u>	<u>\$ 57,767</u>
Total liabilities and annuity fund balance	<u>\$648,271</u>	<u>\$774,307</u>	<u>\$126,036</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. Annuities increased from 31 with annual payment amounts of \$49,193 as of December 31, 2014 to a total of 35 with annual payment amounts of \$51,944 as of December 31, 2019.

The Fund's admitted assets, as of December 31, 2019, were invested mainly in equity securities (97.30%).

## 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. Based upon the sample reviewed, no significant findings were noted.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the recommendations 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 still does not review the Fund's admitted assets on an annual basis.</p>
B	<p>The examiner recommends that the Fund diversify its investment holdings.</p> <p>The Department no longer provides specific guidance for diversification.</p>
C	<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, or a similar name acceptable to the Department, on its annuity benefit checks.</p> <p>The Fund has complied with the recommendation.</p>
D	<p>The examiner recommends that the Fund obtain copies of the death certificates of annuitants for annuity contracts terminated.</p> <p>The Fund obtained copies of the death certificates for all annuity contracts terminated during the examination period.</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 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 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

Respectfully submitted,

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/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. 32157***

***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  
EMMA WILLARD SCHOOL***

*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 29th day of October, 2020*

*LINDA A. LACEWELL  
Superintendent of Financial Services*

*By:*



***MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU***

