



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
COOPER UNION FOR THE ADVANCEMENT OF SCIENCE  
AND ART**

**AS OF December 31, 2021**

**EXAMINER: Manish Gera**

**DATE OF REPORT: March 1, 2023**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
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COOPER UNION FOR THE ADVANCEMENT OF SCIENCE AND ART  
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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

October 16, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32371, dated July 21, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Cooper Union for the Advancement of Science and Art. The Fund's home office is located at 30 Cooper Square, New York, NY 10003.

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

## 1. EXECUTIVE SUMMARY

The examiner recommends that the Investment Strategy Statement be approved by the board of trustees. (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 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 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)

## 2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' examination and assessment of the Cooper Union for the Advancement of Science and Art Segregated Gift Annuity Fund (the "Fund") through which Cooper Union for the Advancement of Science and Art (the "College") provides annuity benefits.

This report outlines DFS's supervisory expectations or priorities and articulates DFS's general views regarding the exceptional circumstances where the College 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 prior examination was conducted as of December 31, 2016. This examination covers the period from January 1, 2017 through December 31, 2021. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2021 but prior to the date of this report (i.e., the completion date of the examination).

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, 2021 to determine whether the Fund's filed 2021 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 Cooper Union for the Advancement of Science and Art is organized for the purpose of preparing students for the professions of art, architecture and engineering as well as humanities and social sciences. The College established the Fund to issue gift annuity agreements in return for gifts from donors in 1998. The Superintendent of Insurance granted to the College a Charitable Annuity Society special permit on May 9, 2003.

#### B. Structure

The Fund is overseen by the College's board of trustees. The College works with donors to establish charitable gift annuity contracts and handles matters relating to the issuance, maintenance, and settlement of contracts.

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

As of the June 30, 2021 audited financial statement, the College's Board of Trustees oversaw an endowment consisting of 488 donor-restricted individual funds comprising \$919,981,744 in total assets. The Fund, as of December 31, 2021, held total admitted assets of \$3,912,145.

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

BNY Mellon handles the Fund's custodial functions, including investment management, benefit payments administration, and accounting.

#### 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.”

Interrogatory 18 in the Fund’s filed 2021 annual statement states the following:

“Has the board or other governing body of the segregated gift annuity fund adopted an Investment Strategy Statement specifying guidelines for the investment of the fund’s assets?”

The examiner’s review of the Fund’s filed 2021 annual statement showed that the Fund answered “yes” to interrogatory 18. The examiner’s review of the Fund’s Investment Policy Statement (“IPS”) revealed that the board, or other governing body, did not approve the IPS. Therefore, the Fund failed to answer interrogatory 18 in the 2021 annual statement correctly.

The examiner recommends that the Investment Policy Statement be approved by the board of trustees.

BNY Mellon is the Fund’s investment adviser and custodian.

BNY Mellon prepared and provided a form investment policy statement to the Fund. The Fund adopted that form 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 delegates to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.



## 5. ASSETS & 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>2016</u>	<u>December 31,</u> <u>2021</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$3,370,007</u>	<u>\$3,912,145</u>	<u>\$ 542,138</u>
Liabilities	<u>\$2,220,203</u>	<u>\$1,907,850</u>	<u>\$(312,353)</u>
Minimum required fund balance	\$ 222,020	\$ 190,785	\$ (31,235)
Excess fund balance (surplus)	<u>927,784</u>	<u>1,813,511</u>	<u>885,727</u>
Total annuity fund balance	<u>\$1,149,804</u>	<u>\$2,004,296</u>	<u>\$ 854,492</u>
Total liabilities and annuity fund balance	<u>\$3,370,007</u>	<u>\$3,912,145</u>	<u>\$ 542,138</u>

The increase in assets and annuity fund balance reflects an increase in net investment income, which were tied to gains in the overall stock market and residuum transferred to the general fund. The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 70 with annual payment amounts of \$270,733 as of December 31, 2016 to a total of 60 with annual payment amounts of \$251,197 as of December 31, 2021.

The Fund's admitted assets, as of December 31, 2021, were invested mainly in equity securities (98.72%).

## 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 8 annuity contracts terminated revealed that in 3 of the 8 cases (37.50%) reviewed, the Fund did not 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 violation and 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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain statements signed by its board members indicating that they received and read the prior report on examination.</p> <p>The Fund has complied with the recommendation.</p>
B	<p>The examiner recommends that the Fund comply with Section 312(b) of the New York Insurance Law by obtaining and maintaining the signature of each board member indicating that they received and read the prior report on examination.</p> <p>The Fund has complied with the recommendation.</p>
C	<p>The examiner recommends that the Fund's board of directors, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.</p> <p>The Fund has complied with the recommendation.</p>
D	<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 complied with the recommendation.</p>
E	<p>The examiner recommends that the Fund strengthen the diversification of its investment holdings. If the trustee has determined that it is in the interests of the beneficiaries not to diversify, then it should memorialize the reasons for that determination in terms of the ISS's risk, return, and time horizon parameters.</p> <p>The Department no longer provides specific guidance for diversification.</p>

<u>Item</u>	<u>Description</u>
F	<p>The examiner recommends that the Fund adopt an Investment Strategy Statement that references 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's Investment Policy Statement established during the exam period references Section 11-2.3 of the Estates, Powers and Trusts Law.</p>
G	<p>The examiner recommends that the Fund avoid or mitigate situations that have the appearance of a conflict of interest, by paying greater scrutiny to any high concentrations in investments that are either issued or sponsored by the investment advisor and establishing a Board of Directors (or a committee thereof) or senior management-level policy or procedures related to conflicts of interest for investment advisors.</p> <p>The Department no longer provides specific guidance for diversification in relation to investment conflicts of interest.</p>
H	<p>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.</p> <p>The Fund has not complied with the recommendation. A similar recommendation appears in this report on examination.</p>

## 8. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Investment Strategy Statement be approved by the board of trustees.	5
B	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
C	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

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 her knowledge and belief.

\_\_\_\_\_/s/  
Manish Gera

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

***APPOINTMENT NO. 32371***

***NEW YORK STATE***

***DEPARTMENT OF FINANCIAL SERVICES***

*I, **ADRIENNE A. HARRIS**, 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  
COOPER UNION FOR THE ADVANCEMENT OF SCIENCE AND ART***

*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 21st day of July, 2022*

***ADRIENNE A. HARRIS***  
*Superintendent of Financial Services*

*By:*



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

