



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
ST. LAWRENCE UNIVERSITY**

**AS OF December 31, 2021**

**EXAMINER: Manish Gera**

**DATE OF REPORT: December 18, 2023**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

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MANISH GERA

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KATHY HOCHUL  
Governor

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ADRIENNE A. HARRIS  
Superintendent

February 26, 2024

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

Madam:

In accordance with instructions contained in Appointment No. 32389, dated September 28, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the St. Lawrence University. The Fund's home office is located at Vilas Hall, Canton, New York 13617.

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

## 1. EXECUTIVE SUMMARY

The Fund violated New York Insurance Law § 312(b) by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with New York Insurance Law § 312(b) by obtaining the signature of each board member indicating that they have received and read any current or future filed report on examination. (See item 3E of this report)

The examiner recommends that the Investment Policy 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 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)

The examiner recommends that the Fund correctly report the amounts in its filed Annual Statements. (See item 7 of this report)

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements. (See item 7 of this report)

The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. (See item 7 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 St. Lawrence University Segregated Gift Annuity Fund (the "Fund") through which St. Lawrence University (the "University") provides annuity benefits.

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).

This report outlines DFS's supervisory expectations or priorities and articulates DFS's general views regarding the exceptional circumstances where the Foundation 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, 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 8 of this report.

### 3. DESCRIPTION OF FUND

#### A. History

St. Lawrence University is organized for the purpose of providing a liberal arts education, with a mission is to provide an inspiring and demanding undergraduate program to students selected for their seriousness of purpose and intellectual promise. The University established the Fund to issue gift annuity agreements in return for gifts from donors in 1988. The Superintendent of Insurance granted to the University a Charitable Annuity Society special permit on December 11, 1992.

#### B. Structure

The management of the University and the Fund and all of its affairs and property are entrusted to a board of trustees. The University issues the annuities, maintains the annuity files, and conducts annuity accounting based upon information obtained from State Street.

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

As of the June 30, 2021 audited financial statement, the University's Board of Trustees oversaw an endowment comprising \$405,077,133 in total assets. The Fund, as of December 31, 2021, held total admitted assets of \$4,191,868.

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

State Street Bank and Trust Company is the custodian of the Fund's assets and performs investment and administrative services on behalf of the Fund. State Street Global Advisors is the Fund's investment manager.

#### E. Oversight Structure

New York Insurance Law § 312(b) states, in part:

“(b) A copy of the report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer's files confirming that such member has received and read such report . . .”

The examiner's review revealed that the Fund failed to obtain statements signed by each board member indicating that they received and read the prior report on examination.

The Fund violated New York Insurance Law § 312(b) by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination. The examiner recommends that the Fund comply with New York Insurance Law § 312(b) by obtaining the signature of each board member indicating that they have received and read any current or future filed report on examination.



#### 4. INVESTMENT REVIEW

##### A. Investment Strategy 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 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.

State Street Global Advisors is the Fund’s investment adviser.

State Street Global Advisors prepared and provided a form investment policy statement (“IPS”) for 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.

**B. Monitoring**

The examiner reviewed the board of trustees minutes to determine if 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 (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>\$3,188,267</u>	<u>\$4,191,868</u>	<u>\$1,003,601</u>
Liabilities	<u>\$2,637,944</u>	<u>\$2,518,883</u>	<u>\$ (119,061)</u>
Minimum required fund balance	\$ 263,794	\$ 251,888	\$ (11,906)
Excess fund balance (surplus)	<u>286,529</u>	<u>1,421,097</u>	<u>1,134,568</u>
Total annuity fund balance	<u>\$ 550,323</u>	<u>\$1,672,985</u>	<u>\$1,122,662</u>
Total liabilities and annuity fund balance	<u>\$3,188,267</u>	<u>\$4,191,868</u>	<u>\$1,003,601</u>

The decrease in liabilities reflects a decrease in the total number of annuities in force. Annuities decreased from 136 with annual payment amounts of \$269,316 as of December 31, 2016 to a total of 109 with annual payment amounts of \$210,247 as of December 31, 2021. The increase in admitted assets and annuity fund balance was due to investment gains.

The Fund's admitted assets, as of December 31, 2021, were invested mainly in equity securities (92.50%).

## 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 6 annuity contracts terminated revealed that in 2 of the 6 cases (33%) 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. ANNUAL STATEMENT REPORTING

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement for the year ended December 31, 2018, namely the Disbursements section, states, in part:

“Line 14 “Current Year” Column: Should agree with Page 2, Line 20.3, “Prior Year” Column, as well as Page 3, Line 15, “Prior Year” Column.

Line 15 “Current Year” Column: Must equal the sum of Lines 13 and 14, as well as Page 2, Line 20.3.

“Prior Year” Column: Report prior year's Annuity Fund Balance at end of year.”

In the Fund's filed 2018 annual statement, it reported \$801,463 as its prior year annuity fund balance on line 14 in the current year column and in line 15 in the prior year column. In 2017, the Fund reported \$690,575 as annuity fund balance. The Fund should have reported \$690,575 as its prior year annuity fund balance in 2018.

The Department's Instructions for Completing the New York State Segregated Annuity Fund Annual Statement for the year ended December 31, 2021 state the following for the Exhibit of Annuities In force In New York:

“Line 1 Report the reserve amount included in the Exhibit of Annuities in Force, Line 1, Column 1, that pertains to New York annuitants.

Line 2 Report the number of annuities, included in the Exhibit of Annuities in Force, Line 1, Column 8, in force at the end of the current year on New York annuitants.

Line 3 Report the annualized amount of annuity payments, included in the Exhibit of Annuities in Force, Line 1, Column 9, payable under contracts that are in force at the end of the current year on New York annuitants.”

The Fund reported 45 annuities with \$350,819 in reserve and \$57,242 in annualized payments in 2021 in the Exhibit of Annuities In force In New York. The Fund should have reported 35 annuities with \$486,400 in reserve and \$53,698 in annualized payments in 2021 in the Exhibit of Annuities In force In New York.

The instructions for Exhibit 2 – Unrealized Capital Gains and Losses Bonds, Stocks, Money Market Mutual Funds, and Other Invested Assets state the following, in part:

“Column 3 Cost

Report the amount from the “Cost” column of the various Schedules for the current year and prior year in each of the categories.

Column 4 Market Value, End of Year

Report the amount from the “Market Value End of Year” column of the various Schedules for the current year and prior year in each of the categories.

Column 5 Unrealized Capital Gains/(Losses)

The amount is the difference between Column 3 and Column 4.”

In Exhibit 2, line 8 of the 2021 filed annual statement, the Fund reported \$3,015,904 as the market value of its common stock in 2020, the prior year, and \$2,031,227 as the cost of its common stock. The Fund should have reported \$3,526,008 as the market value of its common stock and \$2,226,156 as the cost of its common stock instead. This would have yielded an unrealized gain of \$1,299,852 in 2020, lowering unrealized capital gains for 2021 to \$228,682.

The examiner recommends that the Fund correctly report the amounts in its filed Annual Statements.

The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.

The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.

## 8. 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 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>
B	<p>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.</p> <p>The Fund has complied with the recommendation.</p>
C	<p>The examiner recommends that upon the death of an annuitant, the Fund obtain and maintain a copy of the annuitant's 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>
D	<p>The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.</p> <p>The Fund has not complied with the recommendation. A similar recommendation appears in this report on examination.</p>

## 9. 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 Fund violated New York Insurance Law § 312(b) by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination.	5
B	The examiner recommends that the Fund comply with New York Insurance Law § 312(b) by obtaining the signature of each board member indicating that they have received and read any current or future filed report on examination.	5
C	The examiner recommends that the Investment Policy Statement be approved by the board of trustees.	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 delegates 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
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
G	The examiner recommends that the Fund correctly report the amounts in its filed Annual Statements.	11
H	The examiner recommends that the Fund exercise due care in the preparation of its filed annual statements.	11
I	The examiner recommends that the Fund prepare its annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.	11



Respectfully submitted,

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/s/

Manish Gera  
Financial Services Specialist 2

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. 32389***

***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  
ST. LAWRENCE UNIVERSITY***

*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 28th day of September, 2022*

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

*By:*



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

