



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
HOBART AND WILLIAM SMITH COLLEGES
AS OF December 31, 2022**

EXAMINER: Hasan Ahmed

DATE OF REPORT: June 7, 2024

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 trustees	4
	D. Third party service provider	4
	E. Oversight structure	4
4.	Investment review	6
	A. Investment policy statement	6
5.	Assets and liabilities summary	7
6.	Treatment of annuitants	8
7.	Prior report summary and conclusions	9
8.	Summary and conclusions	10

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

June 26, 2024

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

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment No. 32503, dated May 17th, 2023, and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Hobart and William Smith Colleges. The Fund's home office is located at 337 Pulteney Street, Geneva, NY 14456-3397.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period. (See item 3E 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' (the "Department") examination and assessment of the Hobart and William Smith Colleges Gift Annuity Fund (the "Fund") through which Hobart and William Smith Colleges (the "College") provides annuity benefits.

The prior examination was conducted as of December 31, 2017. This examination covers the period from January 1, 2018 through December 31, 2022. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2022 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 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 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, 2022 to determine whether the Fund's filed 2022 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 violation and recommendations 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 Hobart and William Smith Colleges was chartered in 1825 and is organized to discover, preserve, promote and disseminate knowledge through education. The College established the Fund to issue gift annuity agreements in return for gifts from donors in 1991. The Superintendent of Insurance granted to the College a Charitable Annuity Society special permit on June 22, 1993.

B. Structure

The Fund is overseen by the College's board of trustees. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund.

C. Assets under the Board of Trustees

As of the June 30, 2022 audited financial statement, the College's Board of Trustees endowment comprising \$237,195,395 million in total assets. The Fund, as of December 31, 2022, held total admitted assets of \$896,453.

D. Third Party Service Provider

The Fund has a service agreement with State Street Global Advisors ("State Street") for certain accounting and administrative related services. State Street is responsible for the distribution of annuity payments, preparation of monthly financial statements, and issuance of IRS Form 1099R to annuitants.

E. Oversight Structure

The examiner reviewed the investment transactions for the period under examination and noted that the Fund did not obtain broker's advices or other supporting documentation for its investment transactions to reconcile such advices to the monthly statements furnished by the custodian.

The examiner recommends that the Fund obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period.

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.”

The College prepared and provided an investment policy statement (“IPS”) 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 delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.

5. ASSETS AND LIABILITIES SUMMARY

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

	December 31, <u>2017</u>	December 31, <u>2022</u>	<u>(Decrease)</u>
Admitted assets	<u>\$1,445,963</u>	<u>\$896,453</u>	<u>\$(549,510)</u>
Liabilities	<u>\$ 969,924</u>	<u>\$574,924</u>	<u>\$(395,000)</u>
Minimum required fund balance	\$ 96,992	\$ 57,492	\$ (39,500)
Excess fund balance (surplus)	<u>379,047</u>	<u>263,952</u>	<u>(115,095)</u>
Total annuity fund balance	<u>\$ 476,039</u>	<u>\$321,445</u>	<u>\$(154,594)</u>
Total liabilities and annuity fund balance	<u>\$1,445,963</u>	<u>\$896,453</u>	<u>\$(549,510)</u>

The decrease in admitted assets and annuity fund balance is due to multiple factors including the issuance of fewer annuity contracts as well as large annuity payments during the examination period. The decrease in liabilities is attributable to the decrease in total number of annuities in force. Annuities decreased from 83 with annual payment amounts of \$128,804 as of December 31, 2017 to a total of 48 with annual payment amounts of \$79,737 as of December 31, 2022.

The Fund's admitted assets, as of December 31, 2022, were invested mainly in equity securities (97.76%).

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 5 annuity contracts terminated revealed that in 5 of the 5 cases (100%) 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 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 adopt an Investment Strategy 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.</p> <p>The Fund adopted an Investment Strategy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law.</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 obtain broker's advices or other supporting documentation for its investment transactions and that this documentation be reviewed on a timely basis and reconciled to the applicable custodial statements for that period	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.	6
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.	8

Respectfully submitted,

/s/

Hasan Ahmed
Senior Insurance Examiner

STATE OF NEW YORK)

)SS:

COUNTY OF NEW YORK)

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

/s/

Hasan Ahmed

Subscribed and sworn to before me

this _____ day of _____

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:*

HASAN AHMED

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
HOBART AND WILLIAM SMITH COLLEGES (COLLEGES OF THE SENECA)***

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 17th day of May, 2023

ADRIENNE A. HARRIS
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

