REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
BROOKLYN COLLEGE FOUNDATION, INC.

AS OF December 31, 2022

EXAMINER: Manish Gera

DATE OF REPORT: January 15, 2025

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April 2, 2025

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. 32498, dated May 25, 2023 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Brooklyn College Foundation, Inc. The Fund's home office is located at 2900 Bedford Avenue, Brooklyn, NY 11210.

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

1. EXECUTIVE SUMMARY

The Fund should obtain broker's advices or other supporting documentation for its investment transactions and this documentation should be reviewed on a timely basis and reconciled to the applicable custodial statements for that period. (See item 3E of this report)

The Fund should 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 Fund should 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 IPS's risk, return, and time horizon objectives. (See item 4A of this report)

The Investment Policy Statement should be approved by the board of trustees. (See item 4A of this report)

The board of trustees, or a committee thereof, should 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 Fund violated Section 1110(b) of the New York Insurance Law by failing to separate assets received as separate and distinct funds. The examiner directs that the Fund deposit gift annuity proceeds directly into a separate and distinct gift annuity account. (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 Brooklyn College Foundation, Inc. Segregated Gift Annuity Fund (the "Fund") through which Brooklyn College Foundation, Inc. (the "Foundation") 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 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, 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 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

Brooklyn College Foundation, Inc. was chartered in 1958 and is organized for the purpose of generating, encouraging, and promoting the educational purpose of Brooklyn College of the City University of New York and the educational welfare of its students in their relations with each other, the members of the faculty, the alumni and the community. The Foundation established the Fund to issue gift annuity agreements in return for gifts from donors in 1991. The Superintendent of Insurance granted to the Foundation a Charitable Annuity Society special permit on December 10, 1992. The Foundation surrendered its originally issued permit on May 5, 2005 and reapplied for a permit in 2008 when the Fund's reserves exceeded $500,000. The current permit was granted to the Foundation by the Department on March 20, 2008, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law

B. Structure

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a 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 Foundation's Board of Trustees oversaw an endowment fund consisting of 295 individual funds comprising $48,605,299 in total assets. The Fund, as of December 31, 2022, held total admitted assets of $1,329,399.

D. Third-party Service Providers

U.S. Bank National Association ("US Bank") is the custodian of the Fund's assets. RV Kuhns & Associates provides the Fund with investment consulting services. PG Calc prepares the Fund's annual statements. Daniel O'Connell prepared the Fund's annual statements through 2021.

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 Fund should obtain broker's advices or other supporting documentation for its investment transactions and this documentation should 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."

RV Kuhns & Associates is the Fund's investment adviser.

RV Kuhns & Associates prepared and provided a form investment policy statement for the Fund. The Fund adopted that form as its Investment Policy Statement.

The Fund should 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.

The examiner's review of the Fund's Investment Policy Statement showed that it failed to reference to the prudent investor standard as specified in Section 1110(b) of the New York Insurance Law.

The Fund should 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 IPS's risk, return, and time horizon objectives.

The examiner's review of the Fund's Investment Policy Statement ("IPS") revealed that the board did not approve the IPS.

The Investment Policy Statement should be approved by the board of trustees.

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 board of trustees, or a committee thereof, should 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:

	December 31, 2017	December 31, 2022	Increase
Admitted assets	$1,134,045	$1,329,399	$195,354
Liabilities	$ 807,564	$ 984,351	$176,787
Minimum required fund balance	$ 80,756	$ 98,435	$ 17,679
Excess fund balance (surplus)	245,725	246,614	889
Total annuity fund balance	$ 326,481	$ 345,049	$ 18,568
Total liabilities and annuity fund balance	$1,134,045	$1,329,399	$195,354

The increase in assets, liabilities and annuity fund balance reflects an increase in the market value of the Fund's invested assets and the increase in the size of donor agreements. Additionally, there were withdrawals of funds to account for donor deaths. Annuities decreased from 52 with annual payment amounts of $96,358 as of December 31, 2017 to a total of 40 with annual payment amounts of $87,791 as of December 31, 2022.

The Fund's admitted assets, as of December 31, 2022, were invested in equity securities (69.13%) and in money market mutual funds (29.26%).

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. SEGREGATION OF ASSETS AND INTERNAL CONTROL

Section 1110(b) of the New York Insurance Law states the following:

> "(b)…Such assets shall be segregated as separate and distinct funds, independent of all other funds of such corporation or association, and shall not be applied to pay its debts and obligations or for any purpose except the aforesaid annuity benefits."

The examiner's review of gifts received by the Fund during the examination period (2018 through 2022) noted that the proceeds were deposited into the Foundation's general gift bank account before being transferred to the segregated gift annuity account. The examiner determined that on average the proceeds of the gifts were transferred from the Foundation's general gift bank account to the gift annuity account 20.14 days from the date of the gift.

The Fund violated Section 1110(b) of the New York Insurance Law by failing to separate assets received as separate and distinct funds.

The examiner directs that the Fund deposit gift annuity proceeds directly into a separate and distinct gift annuity account.

8. PRIOR REPORT RECOMMENDATIONS

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

Item	Description
A	The examiner recommends that the board of directors, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes. The Foundation's board of directors, or a committee thereof, failed to review a report of the Fund's admitted assets at least annually during the exam period. A similar recommendation appears in this report on examination.
B	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. The Department no longer provides specific guidance for diversification.

9. VIOLATION & RECOMMENDATIONS

Following are the violation and recommendations contained in this report:

Item	Description	Page No(s).
A	The Fund should obtain broker's advices or other supporting documentation for its investment transactions and this documentation be should reviewed on a timely basis and reconciled to the applicable custodial statements for that period.	5
B	The Fund should 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 Fund should 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 IPS's risk, return, and time horizon objectives.	6
D	The Investment Policy Statement should be approved by the board of trustees.	7
E	The board of trustees, or a committee thereof, should 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 Fund violated Section 1110(b) of the New York Insurance Law by failing to separate assets received as separate and distinct funds.	10
G	The examiner directs that the Fund deposit gift annuity proceeds directly into a separate and distinct gift annuity account.	10

Respectfully submitted,

/s/
Manish Gera
Senior 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. 32498

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 BROOKLYN COLLEGE FOUNDATION, INC.

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 25th day of May, 2023

ADRIENNE A. HARRIS
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU