REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
BROOKLYN ACADEMY OF MUSIC, INC

AS OF December 31, 2023

EXAMINER: Hasan Ahmed

DATE OF REPORT: March 30, 2026

TABLE OF CONTENTS

ITEM		PAGE NO.
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 providers	4
4.	Investment review	5
	A. Monitoring	5
5.	Assets and liabilities summary	6
6.	Treatment of annuitants	7
7.	Annual statement reporting	8
8.	Prior report violations & recommendations	11
9.	Recommendations	13

June 12, 2026

Honorable Kaitlin Asrow
Acting Superintendent of Financial Services
New York, New York 10004

Dear Kaitlin Asrow:

In accordance with instructions contained in Appointment No. 32615, dated November 26th 2024, and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Brooklyn Academy of Music, Inc. The Fund's home office is located at 30 Lafayette Avenue, Brooklyn, NY 11217.

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

1. EXECUTIVE SUMMARY

The Fund's board of trustees, or a committee thereof, should review the activities of the Fund at least annually and note the same in the minutes. (See item 4A 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)

The Fund should exercise due care in the preparation of its filed annual statements. (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' (the "Department") examination and assessment of the Brooklyn Academy of Music, Inc. (the "Fund") through which Brooklyn Academy of Music, Inc (the "Academy") provides annuity benefits.

The prior examination was conducted as of December 31, 2018. This examination covers the period from January 1, 2019 through December 31, 2023. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2023 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, 2023 to determine whether the Fund's filed 2023 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 Brooklyn Academy of Music, Inc was chartered in 1969 and is organized for presenting, promoting, aiding and advancing artists, writers, musicians, and composers. The Academy established the Fund to issue gift annuity agreements in return for gifts from donors in 2009. The Superintendent of Insurance granted to the Organization a Charitable Annuity Society special permit on May 8, 2009.

B. Structure

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

C. Assets under the Board of Trustees

As of the June 30, 2023 audited financial statement, the Academy's Board of Trustees oversaw an endowment comprising $91,872,615 in total assets. The Fund, as of December 31, 2023, held total admitted assets of $129,082.

D. Third-party Service Providers

Bank of America is the custodian of the Fund's assets.

4. INVESTMENT REVIEW

A. Monitoring

New York Estate Powers and Trust Law § 11-2.3(c)(1) requires trustees to exercise care, skill and caution in periodically reviewing the delegee's exercise of the delegated function and compliance with the scope and terms of the delegation.

New York Not-for-Profit Corporation Law § 554(a)(3) provides that, when delegating investment functions, an institution must monitor its agents' performance and compliance with the scope and terms of each's respective delegation. In so doing, the institution must use the care that an ordinarily prudent person in a like position would exercise under similar circumstances.

The examiner requested the minutes of the board of trustees and all committees thereof for the examination period. The Fund provided the examiner with a copy of the board minutes for meetings conducted in 2022 only.

The Fund's board of trustees, or a committee thereof, should review the activities of the Fund at least annually and note the same in the minutes.

5. ASSETS AND 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:

	December 31, 2018	December 31, 2023	Increase (Decrease)
Admitted assets	$161,565	$129,082	$(32,483)
Liabilities	$ 25,202	$ 7,879	$(17,323)
Minimum required fund balance	$100,000	$ 444	$(99,556)
Excess fund balance (surplus)	36,362	120,759	84,397
Total annuity fund balance	$136,362	$121,203	$(15,159)
Total liabilities and annuity fund balance	$161,564	$129,082	$(32,482)

The decline in assets and annuity fund balance was due to a fund transfer to the Academy in the amount of $100,000 in 2019. The decrease in liabilities reflects no newly issued annuities and constant annuity payments made for the single in force annuity throughout the examination period. Annuities remained at 1, with annual payment amounts of $3,439 throughout the entire examination period.

The Fund's admitted assets, as of December 31, 2023, were in cash on deposit (100%).

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. ANNUAL STATEMENT REPORTING

The Instructions for Completing line 10 of the liabilities and annuity fund balance section of the New York State Segregated Gift Annuity Fund Annual Statement for December 31, 2021, 2022, and 2023 states:

> "Line 10 "Report the gross actuarial reserves maintained on annuities in force as of December 31 of the current year and the prior year, in the appropriate column."

The Instructions for Completing line 10a of the liabilities and annuity fund balance section of the New York State Segregated Gift Annuity Fund Annual Statement for December 31, 2021, 2022, and 2023 states, in part:

> "Line 10a "Report the amount of additional reserve required as pursuant to Department Regulation No. 126 as of December 31 of the current year…"

The Instructions for Completing line 20 of the liabilities and annuity fund balance section of the New York State Segregated Gift Annuity Fund Annual Statement for December 31, 2021, 2022, and 2023 states, in part:

> "Line 20.1 "Current Year" Column: A minimum required fund balance equal to 10% of the net reserve reported at Line 12 must be reported at this Line. Refer to Section 1110(b) of the New York Insurance Law.
> "Prior Year" Column: Report prior year's minimum required fund balance.
>
> Line 20.2 "Current Year" Column: Line 20.3 minus Line 20.1.
> "Prior Year" Column: Report prior year's excess fund balance.
>
> Line 20.3 Total Annuity Fund Balance:
> Statements filed without the detailed listing, as described above, will not be accepted as a complete filing and penalties for late filing may be imposed from March 1 until the complete listing is received.
>
> "Current Year" Column: The difference of the Total Assets (Page 2, Line 9) and Total Liabilities (Page 2, Line 19). This amount must equal to the sum of Lines 20.1 and 20.2, as well as the amount on Page 3, Line 15.
> "Prior Year" Column: Report prior year's Total Annuity Fund Balance."

In the Fund's filed 2021, 2022, and 2023 annual statements, it underreserved its only annuity in force. Accordingly, the Fund understated its liabilities and overstated its annuity fund

balance. Details on the understatement of liabilities and overstatement of annuity fund balance are shown in the tables below, by year:

2021:

	Per Fund	Per Examiner	Variance
Assets	$125,618	$125,618	$ -
Net Present Value of Reserves	$ 11,598	$ 24,868	$ 13,270
Additional Reserve Per Reg 126	$ 1,740	$ 3,730	$ 1,990
Other Liabilities	$ -	$ -	$ -
Total Liabilities	$ 13,338	$ 28,598	$ 15,260
Minimum Required Fund Balance	$100,000	$ 100,000	$ -
Excess Fund Balance	$ 12,280	$ (2,980)	$(15,260)
Total Annuity Fund Balance	$112,280	$ 97,020	$(15,260)
Total Liabilities and Annuity Fund Balance	$125,618	$125,618	$ -

2022:

	Per Fund	Per Examiner	Variance
Assets	$128,210	$128,210	$ -
Net Present Value of Reserves	$ 7,300	$ 23,533	$ 16,233
Additional Reserve Per Reg 126	$ 1,095	$ 3,530	$ 2,435
Other Liabilities	$ -	$ -	$ -
Total Liabilities	$ 8,395	$ 27,063	$ 18,668
Minimum Required Fund Balance	$100,000	$100,000	$ -
Excess Fund Balance	$ 19,815	$ 1,147	$(18,668)
Total Annuity Fund Balance	$119,815	$101,147	$(18,668)
Total Liabilities and Annuity Fund Balance	$128,210	$128,210	$ -

2023:

	Per Fund	Per Examiner	Variance
Assets	$129,082	$129,082	$ -
Net Present Value of Reserves	$ 3,861	$ 22,240	$ 18,379
Additional Reserve Per Reg 126	$ 579	$ 3,336	$ 2,757
Other Liabilities	$ -	$ -	$ -

Total Liabilities	$ 4,440	$ 25,576	$ 21,136
Minimum Required Fund Balance	$100,000	$100,000	$ -
Excess Fund Balance	$ 24,642	$ 3,506	$(21,136)
Total Annuity Fund Balance	$124,642	$103,506	$(21,136)
Total Liabilities and Annuity Fund Balance	$129,082	$129,082	$ -

The Fund should exercise due care in the preparation of its filed annual statements.

8. PRIOR REPORT VIOLATIONS & 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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain signed statements from the board members indicating that they received and read the prior report on examination. . The Fund obtained signed statements from the board members indicating that they received and read the prior report on examination.
B	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. The Fund complied 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.
C	The Fund violated Section 1110(a) of the New York Insurance Law by using a gift annuity agreement form that differed from the gift annuity agreement forms that were filed with the Superintendent. This is not applicable. The Fund did not issue any annuity agreements during the examination period.
D	The examiner recommends that the Fund file with the Superintendent the gift annuity agreement form that was used and not previously filed with the Superintendent. This is not applicable. The Fund did not issue any annuity agreements during the examination period.
E	The examiner recommends that the Fund use on all annuity benefit checks 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. The Fund used on all annuity benefit checks 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.

Item	Description

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

The examiner noted new discrepancies in its filed annual statements. A similar recommendation appears in this report on examination.

9. RECOMMENDATIONS

Following are the recommendations contained in this report:

Item	Description	Page No(s).
A	The Fund's board of trustees, or a committee thereof, review the activities of the Fund at least annually and note the same in the minutes.	5
B	The Fund should exercise due care in the preparation of its filed annual statements.	10

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 _____

APPOINTMENT NO. 32615

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 BROOKLYN ACADEMY OF MUSIC, 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 26th day of November, 2024

ADRIENNE A. HARRIS
Superintendent of Financial Services

By: Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU