



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
SIENA COLLEGE**

AS OF December 31, 2019

EXAMINER: Manish Gera

DATE OF REPORT: December 4, 2020

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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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 payment service provider	4
	E. Oversight structure	4
4.	Investment review	6
	A. Investment policy statement	6
	B. Monitoring	6
5.	Assets and liabilities summary	7
6.	Treatment of annuitants	8
7.	Annual statement reporting	9
8.	Prior report summary and conclusions	10
9.	Summary and conclusions	11

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

December 23, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 32067, dated April 02, 2020 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Siena College. The Fund's home office is located at 515 Loudon Road, Loudonville, NY 12211.

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 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 the Fund ensure that all gift annuity agreement forms have the appropriate form number as approved by the Superintendent printed on each form issued. (See item 6 of this report)

The examiner recommends that the Fund prepare its listing of reserves in accordance with the Department's instructions. (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' ("Department", or "DFS") examination and assessment of the Siena College Segregated Annuity Fund (the "Fund") through which Siena College (the "College") provides annuity benefits.

The prior examination was conducted as of December 31, 2014. This examination covers the period from January 1, 2015 through December 31, 2019. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2019 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, 2019 to determine whether the Fund's filed 2019 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

Siena College was chartered in 1938 and is organized for the purpose of establishing, operating and maintaining a college to promote and disseminate higher education in the arts, sciences, and business administration in the county of Albany, New York. The College grants and confers degrees and honors in conformity with the rules of the Board of Regents of the University of the State of New York. 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 31, 2000.

B. Structure

The management of the College 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 May 31, 2019 audited financial statement, the College's Board of Trustees oversaw an endowment comprising \$137,220,433 in total assets. The Fund, as of December 31, 2019, held total admitted assets of \$3,006,044.

D. Third-Party Payment Service Provider

Berkshire Bank is the Fund's custodian and investment manager. Renaissance Administration issues annuity benefit payments and calculates gift annuity values. BPAS performs the calculation of net reserves on behalf of the Fund.

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 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.”

Berkshire Bank is the Fund’s investment adviser and custodian.

The College’s Board prepared and adopted an investment policy statement (“IPS”) for the Fund. The Fund adopted that 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.

B. Monitoring

The examiner reviewed the Investment Committee minutes to determine whether the Committee 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 AND 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:

	<u>December 31,</u> <u>2014</u>	<u>December 31,</u> <u>2019</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$2,601,496</u>	<u>\$3,006,044</u>	<u>\$404,548</u>
Liabilities	<u>\$1,071,839</u>	<u>\$1,082,663</u>	<u>\$ 10,824</u>
Minimum required fund balance	\$ 107,184	\$ 108,221	\$ 1,037
Excess fund balance (surplus)	<u>1,422,473</u>	<u>1,815,159</u>	<u>392,686</u>
Total annuity fund balance	<u>\$1,529,657</u>	<u>\$1,923,381</u>	<u>\$393,724</u>
Total liabilities and annuity fund balance	<u>\$2,601,496</u>	<u>\$3,006,044</u>	<u>\$404,548</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the market value of the Fund's investments. Annuities in force remained at 32 with annual payment amounts of \$106,549 as of December 31, 2014 and annual payment amounts of \$105,819 as of December 31, 2019.

The Fund's admitted assets, as of December 31, 2019, were invested in equity securities (55.87%) and bonds (37.08%). All bonds held were investment grade.

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 reviewed a sample of new gift annuities issued by the Fund during the examination period. In the sample selected, the examiner noted that 4 out of the 4 newly issued gift annuities reviewed had contracts which did not have the appropriate form number as approved by the Superintendent printed on the forms.

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.

7. ANNUAL STATEMENT REPORTING

The Department's Instructions for Completing the New York State Segregated Gift Annuity Fund Annual Statement as they pertain to the requirement of an annuity reserve listing state, in part:

“1(b) Two electronic copies of the reserve listing: one in an excel format and the other in a PDF format.

...providing complete details relative to annuity tables, rates of interest, etc. as of the current year. The information that is required for each gift is: name and/or contract number; sex; date of birth; issue date; gift amount; annual income paid; mode of payment; for deferred annuities: annuity commencement date; for joint and survivor contracts: all information previously listed on both lives. Contracts must be identifiable as to which valuation basis and interest rate was used to value each contract. Actuarial statements or certifications are not acceptable in lieu of the detailed listing.”

The examiner reviewed the Fund's reserve listings for each of the years in the examination period and determined that the Fund's filings did not adhere to the Department's Instructions. The Fund's reserve listings failed to include information related to the annuitants' reserve state.

The examiner recommends that the Fund prepare its listing of reserves in accordance with the Department's instructions.

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 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.</p> <p>The Fund failed to remedy this violation. A similar violation appears in this report on examination.</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 failed to comply with this recommendation. A similar recommendation appears in this report on examination.</p>
C	<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 failed to comply with this recommendation. A similar recommendation appears in this report on examination.</p>
D	<p>The examiner recommends that the Fund prepare its listing of reserves in accordance with the Department's instructions.</p> <p>The Fund failed to include the reserve state in its reserve listing. 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 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
D	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.	6
E	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	8
F	The examiner recommends that the Fund prepare its listing of reserves in accordance with the Department's instructions.	9

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 his knowledge and belief.

/s/

Manish Gera

Subscribed and sworn to before me

this _____ day of _____

APPOINTMENT NO. 32231

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, 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
SYRACUSE 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 6th day of April, 2021

*LINDA A. LACEWELL
Superintendent of Financial Services*

By:



*MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU*

