



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
PACE UNIVERSITY**

AS OF December 31, 2021

EXAMINER: Manish Gera

DATE OF REPORT: December 21, 2022

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

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KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

August 30, 2023

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

Madam:

In accordance with instructions contained in Appointment No. 32385, dated July 14, 2022 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Pace University. The Fund's home office is located at Treasurer's Office, One Pace Plaza, New York, NY 10038.

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

1. EXECUTIVE SUMMARY

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the December 31, 2021 filed annual statement. (See item 4 of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent. The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent. (See item 5 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 Pace University Segregated Gift Annuity Fund (the "Fund") through which Pace 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 6 of this report.

3. DESCRIPTION OF FUND

A. History

Pace University is organized for the purpose of providing educational services to students. The University established the Fund to issue gift annuity agreements in return for gifts from donors in 1984. The Superintendent of Insurance granted to the University a Charitable Annuity Society special permit on March 6, 1997.

B. Structure

The management of the University 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 itself.

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 consisting of 435 individual funds comprising \$255,310,657 in total assets. The Fund, as of December 31, 2021, held total admitted assets of \$1,360,018.

D. Third-party Payment Service Provider

BNY Mellon Bank is the investment manager and custodian of the Fund's assets. BNY Mellon Bank also calculates and tracks gift annuity remainder values; distributes periodic payments to income beneficiaries; prepares and distributes annual IRS Forms 1099-R; and assists the Fund in completing its New York State filing.

4. 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:

	<u>December 31,</u> <u>2016</u>	<u>December 31,</u> <u>2021</u>	<u>Increase</u>
Admitted assets	<u>\$925,871</u>	<u>\$1,360,018</u>	<u>\$434,147</u>
Liabilities	<u>\$421,047</u>	<u>\$ 440,520</u>	<u>\$ 19,473</u>
Minimum required fund balance	\$ 42,105	\$ 44,052	\$ 1,947
Excess fund balance (surplus)	<u>462,719</u>	<u>875,446</u>	<u>412,727</u>
Total annuity fund balance	<u>\$504,824</u>	<u>\$ 919,498</u>	<u>\$414,674</u>
Total liabilities and annuity fund balance	<u>\$925,871</u>	<u>\$1,360,018</u>	<u>\$434,147</u>

The increase in assets and liabilities reflects an increase in the total number of annuities in force. Annuities increased from 23 with annual payment amounts of \$41,274 as of December 31, 2016 to a total of 24 with annual payment amounts of \$42,804 as of December 31, 2021. The annuity fund balance increased due to the gains of the market as well as due to additional excesses that have been generated through overall investment performance.

The Fund's admitted assets, as of December 31, 2021, were invested mainly in equity securities (99.31%).

5. 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.

Section 1110(a) of the New York Insurance Law states, in part:

“. . . Every such corporation or association shall, before making such agreement, file with the superintendent copies of its forms of agreements with annuitants . . .”

The examiner’s review of a sample of 2 newly issued gift annuities by the Fund during the examination period noted that in all 2 newly issued annuities, the Fund used forms that differed from the gift annuity agreements filed with the Superintendent. The deviating form number found in the sample was PACEI-I-I. In addition, another form was missing a form number.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.

The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.

6. 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 diversify its investment holdings.</p> <p>The Department no longer provides specific guidance for diversification.</p>
B	<p>The examiner recommends that the Fund use 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 on the annuity benefit checks issued to annuitants.</p> <p>The Fund has complied with the recommendation.</p>

7. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.	6
B	The examiner recommends that the Fund file with the Superintendent all gift annuity agreement forms that were used and not previously filed with the Superintendent.	6

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 her knowledge and belief.

_____/s/
Manish Gera

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 32385

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
PACE 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 14th day of July, 2022

ADRIENNE A. HARRIS
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

