

# Q&A: Nonprofit Corporate Annual Reports

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For ongoing nonprofit legal compliance, what annual reports need to be filed? Three key types of reports may be required, depending on the specific state involved and the nonprofit's particular activities: (1) IRS – a version of the IRS Form 990 (except for houses of worship and certain other religious organizations) for federal income tax compliance; (2) state Attorney General offices, with extremely state-specific requirements for this fundraising compliance; and (3) state Secretary of State office (or analogous state agencies) for ongoing corporate existence.

This article addresses the last category, through the following Q&A sections. These state annual reports may be quite minimal in nature. Filing compliance is nonetheless extremely important, since failure to file these reports may result in corporate dissolution and related legal compliance problems.

## Who must file a corporate annual report?

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The vast majority of US nonprofits are incorporated. More specifically, they have received recognition from a state agency as a legal entity separate and apart from their individual members or representatives under a state corporation law, whether as a not-for-profit corporation, a mutual benefit corporation, or any other corporate form the state recognizes. Other than in a few states (see below), all nonprofit corporations, including churches and other entities commonly exempt from some types of filings, must file periodic corporate annual reports once they have filed articles of incorporation (or certificate of formation). Keep in mind, though, that nonprofit subsidiary LLCs, partnerships, other entities, or joint ventures may likewise have annual reporting requirements.

Nonprofits operating in “foreign” states (i.e., U.S. states other than their state of incorporation) may be required to register for authority to do business in such states, which generally triggers additional annual or periodic report filings. Furthermore, attention should be given to trade names (also known as “assumed names” or “DBAs”), which may have a periodic reporting requirement every 5 years in conjunction with the organization's primary corporate report.

## What information is required?

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Corporate annual reports may be the simplest of a nonprofit's reporting requirements! A corporate annual report may only require a list of the organization's directors and officers, addresses, and registered agent information. A registered agent is a person or company

located in the state and designated to receive any official notices on behalf of the organization, such as service of process for any litigation or notices regarding state filings. [1]

Interestingly enough, this filing compliance occasionally reveals corporate governance issues meriting further attention. For example, some organizations are not necessarily sure of their current directors and officers, as they should be. Additionally, some organizations are lacking the requisite “President” or other officer positions, and so follow-up attention is needed for identifying these leaders. Still other organizations find out that their officer positions do not align with their bylaw provisions addressing officers, which means that one or the other needs to be modified. The annual report filing window is thus often a great time to review corporate governance compliance.

## **When is the corporate annual report due?**

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While most corporate reports are in fact “annual” reports requiring a once-per-year filing, it is important to understand the filing cadence per state can vary. California, Iowa, Indiana, Nebraska, and Vermont only require annual reports every 2 years. Texas, Ohio, and Pennsylvania require annual reports every 4, 5, or 10 years, respectively (although interim reporting may be required if the organization makes changes to its board, address, registered agent, or other required information). Thankfully, state agencies provide advance notice of upcoming renewal requirements, sent via email or postal mail to the registered agent on file. A few states, such as Alabama, New York, North Carolina, and South Carolina, have no corporate annual report filing requirements.

## **Where is a corporate annual report filed?**

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Since corporate annual reports are a follow-up compliance requirement for filed articles of incorporation, the annual reports should be filed with the corresponding state authority, typically a Secretary of State. A nonprofit’s leaders or legal counsel thus must carefully check the applicable state requirements.

## **What are the consequences of failure to timely file a corporate annual report?**

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While the corporate annual report may appear to be less significant than other complex financial or charitable reporting forms, failure to timely file the corporate annual report can lead to a “not in good standing” corporate status. If the filing is not later completed, then the corporation will likely be administratively dissolved. Most states allow for corporate reinstatement, upon the submission of missing annual reports and an application for reinstatement. But getting administratively dissolved can be extremely unnerving, and it is an administrative and potentially costly matter to get reinstated.

Note too that filing after the deadline may result in late filing penalties and fees. Furthermore, the Secretary of State or another state authority may place a hold on processing other filings until the delinquent status is resolved. Finding out that a corporation is “not in good standing” or has been dissolved can also derail a real estate closing or other transaction, for which the parties involved expect the corporate’s legal existence to be in good order.

## **How is the corporate annual report submitted?**

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States offer a range of online, mail-in, or walk-in options to file corporate annual reports. Online submission forms and printable forms, if required, can be accessed through the state agency’s website, which will have a specific annual report filings for nonprofits as opposed to for-profit businesses, LLCs, or other entity types.

States also may have specific requirements for filing online or in-person. For example, in Illinois, the online filing system is a quick and easy option; however, if the nonprofit has more than 6 officers or 7 directors, the information will exceed the online form’s capacity, and mail-in or walk-in processing is required.

Officer authorization is typically required, either by written approval to the registered agent to submit the form on the organization’s behalf or direct signature.

## **Wrap Up**

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In summary, corporate annual reports are simple yet essential compliance filings to maintain active registration status in operating states. Our law firm regularly assists hundreds of our nonprofit clients with this basic but critical legal compliance step. We occasionally help other organizations with reinstatements, related filing delinquency issues, and deeper-dive corporate governance questions. Paying attention to these annual reports thus provides one of many opportunities to serve nonprofits with wisdom and diligence.

[1] For more information on Registered Agents, please see our law firm’s blog article [here](#).



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