

Guidelines to Counsel and Researchers Seeking Discovery from Stanford University Libraries

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Stanford University Libraries & Academic Information Resources (SULAIR) frequently receives requests from law firms and researchers soliciting information about the date a work was made available to the public through SULAIR. These requests run the gamut from informal emails to deposition subpoenas, but they commonly seek information regarding the date a work included in the SULAIR catalog was available to the general public, and seek statements made under penalty of perjury setting forth a date certain for that availability. Unfortunately, variability in materials check-in procedures across item types, region and method of acquisition, and, most significantly, time, make it impossible to provide such information with the level of specificity generally sought. The guidelines below include significant and useful background information on SULAIR's procedures, and are designed to save time for both SULAIR and those seeking information. **SULAIR disfavors unnecessary discovery demands, and reserves the right to bring motions to quash and to seek sanctions for such unnecessary discovery demands.**

Prior to bringing a discovery request to SULAIR, please note the following.

- 1) **SULAIR will never be able to give a date certain that a work was made available to the public.** Generally, works are available to the public within a year of when SULAIR accepts them into the collection.
- 2) Stanford has been building its library collections for over 100 years and the cataloging process has changed multiple times in SULAIR's history. SULAIR will not attest to cataloging procedures that existed prior to the process that exists today. For older works, due dates may be stamped on the work, and serve as evidence that a work was available and circulating prior to the earliest stamped due date. Current circulation procedures do not include date due stamps.
- 3) Currently, all materials (including dissertations) are given a catalog date by SULAIR's Metadata Department. Once processed by Metadata, records for these works are viewable in SULAIR's online catalog, and the physical work (where there is one) is transferred to the library in which the work will be housed. Journal issues are generally on the shelf within days of receipt, but depending on the work, it can take anywhere from a few days to several months to get the material on the shelf.

Prior to bringing a discovery request, please exhaust the following steps:

- A) For single-volume works, examine the “librarian view” of the record of the work in Stanford’s online catalog, SearchWorks (<http://searchworks.stanford.edu/>). The 999 field in that record includes a catalog date for the item in the |u subfield, and single-volume works are generally available to the public within a year of this date. There is no equivalent field for individual issues of serial works, however.
- B) Visit the library to view the physical copy of the work to check for check-out or date due stamps. SULAIR’s visitor access policies can be found online here: http://library.stanford.edu/how_to/borrow_get_access/non_stanford_users/index.html
- C) Ask opposing counsel to stipulate to the fact that the work was available a year after the cataloging date (or the first due date, whichever is earlier).
- D) Ask a court to take judicial notice of the date a work was available to the public, (that is, a year after the cataloging date).

When there is no alternative but to bring a discovery request, be prepared to pay for librarians’ time to respond to discovery requests. SULAIR reserves the right to charge up to \$200 an hour for reference services in support of legal matters.