Report

College and University Government Miami-Dade Community College (Florida)¹

This report concerns the action taken by the administration of Miami-Dade Community College to abolish the existing system of academic government at the institution following a faculty vote in favor of collective bargaining and to replace it with a wholly new system of governance.

I. The Institution

Miami-Dade Community College (MDCC) is a multicampus, two-year, state-supported institution in the Miami area. Originally named Dade County Junior College, MDCC was established in 1959 and began offering classes in September 1960 on what is now North Campus and was then part of a naval air station used during World War II. The college has grown dramatically over the years and currently consists of six distinct campuses as well as numerous "outreach centers" throughout Miami-Dade County. North Campus is located twelve miles north of downtown Miami. Kendall Campus (originally South Campus), which opened in 1965, is located in the county's southern suburbs and is the college's largest campus. Wolfson Campus, which is also the site of the central (or district) administration, opened in 1970; it is located in downtown Miami and houses the New World School of the Arts, established in 1984. The Medical Center Campus, opened in 1977, is located in the heart of Miami-Dade County's medical community. The Homestead Campus, which opened in 1990, is near the air force base of that name, in the southernmost part of the county. The InterAmerican Campus, located in the Little Havana neighborhood of Miami, was established in 1973 as

part of the Wolfson Campus; it became a separate, full-fledged campus, the sixth, in 1997. The campus president is the highestranking administrative officer on each of the campuses. Each campus also has its own academic dean and other administrative officers.

In the course of its nearly forty-year history, Miami-Dade Community College has developed a complex institutional structure. Over and above the individual, semiautonomous campuses, with their own academic divisions and departments, their own academic programs and class schedules, and their own administrative arrangements, stands a district administration, which supports and oversees the financial, personnel, and facilities management functions of the entire college. A centralized District Office of Education coordinates the college's courses and programs.

Miami-Dade describes itself as "the largest multi-campus, single-district community college in America and the second largest college or university in all of [American] higher education." The college, which is open to all high school graduates and offers classes seven days a week, enrolls each term about 50,000 credit students and an even greater number of noncredit students; 65 percent of the students are part time. Serving this diverse student body are approximately 775 full-time and 1,350 part-time faculty. The college offers Associate in Arts and Associate in Science degrees and a broad range of technical, vocational, and professional certificate programs along with specialized training. Miami-Dade has been accredited since 1964 by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS).

Dr. Eduardo J. Padrón took office as MDCC's district president in October 1995, succeeding Dr. Robert McCabe, who had served since 1980. A student at Miami-Dade in the early 1960s, Dr. Padrón received his B.A. degree from Florida Atlantic University and his M.A. and Ph.D. degrees in economics from the University of Florida. He joined the Miami-Dade faculty in 1970 as an assistant professor of economics at the college's Wolfson Campus, where he was successively department chair, academic dean, and campus president. The district provost of Miami-Dade is Dr. Jeffrey D. Lukenbill, who has been at the college, in either

^{1.} The text of this report was written in the first instance by the members of the investigating committee. In accordance with Association practice, the text was then edited by the Association's staff, and, as revised, with the concurrence of the investigating committee, was submitted to Committee T on College and University Government. With the approval of Committee T, the report was subsequently sent to the administration of Miami-Dade Community College, to the chair of the board of trustees, to the officers of the faculty union and of the AAUP chapter, and to other persons concerned in the report. In the light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

a faculty or an administrative capacity, since 1972. Prior to his appointment as provost in July 1997, he was dean of academic affairs at MDCC's North Campus.

The college is governed by a seven-member district board of trustees, appointed by the governor of Florida. The board's chair at the time of the events described in this report was Martin Fine, a Miami attorney, who had held that position since 1988, and who left the board at the end of the 1998-99 academic year. He was succeeded by Roberto Martínez, also a Miami attorney.

From 1969 until March 1998, the principal governance document of Miami-Dade Community College was Policy I-80 (the Governance Constitution of the Faculty Senates), which is discussed below.

II. Factual Background

The faculty and administration of Miami-Dade Community College have been at loggerheads almost from the beginning of Eduardo Padrón's presidency. Soon after Dr. Padrón took office in fall 1995, he announced that the college, largely as a result of steadily declining state funding allocations, was faced with an unprecedented financial crisis, to which he responded by embarking on a significant "reengineering" program. He imposed hiring and spending freezes, placed a moratorium on new construction projects, delayed the opening of new campus facilities, and cut back on maintenance and repairs. At the Medical Center Campus, general education and English as a Second Language courses were eliminated and the honors and developmental studies programs were closed.

Complaints soon began to be heard from some faculty quarters about the president's having reordered the college's spending priorities and made major decisions on academic policy matters, with little regard for the faculty's views. As the Miami New Times would later observe, "It wasn't that professors necessarily disagreed with the changes [President] Padrón was making. They took exception to how he was making those changes, specifically, to his perceived tendency to ignore the input of MDCC's faculty senates." The perception seems to have grown stronger thereafter.

In a January 1996 memorandum on the financial crisis, President Padrón stated, "Change we must, both in the short- and longterm if we are to survive and grow. . . . To preserve and fulfill our educational mission we must reassess our entire operational approach." On March 29, 1996, a day which came to be known at MDCC as "Black Friday," the administration announced the largest single job cut in the college's history, with layoffs of 119 support staff and administrative officers. No full-time faculty positions were involved in the layoffs, which included one vice president, two deans, and five associate deans. In addition, 280 vacant positions were eliminated. The president described these actions as necessary for the survival of the institution.

In June, President Padrón unexpectedly announced that the college had achieved a dramatic turnaround and was fiscally more

stable than it had been in more than a decade. He announced that new money was available to implement what he called his "vision for the future." He proposed salary increases for faculty and staff, new academic and certificate programs, new positions, enhanced building maintenance, computer upgrades, and equipment purchases. He was quoted in the press as stating, "My biggest accomplishment is that I was able to convince people that we needed to change the way we do business around here. We made the efforts. We made the cuts. It paid off."

The process of "organizational reengineering" was far from over, however. That fall, President Padrón announced the consolidation of Miami-Dade's intercollegiate athletics programs effective with the 1997-98 academic year. At the time, the college had four athletics administrations, on separate campuses, and campus teams for most sports. The president created a centralized athletics administration and instituted a "one sport-one team" concept, eliminating eleven of the college's sixteen intercollegiate teams, and assigning each of the remaining five teams to one of the three large campuses. The administration also changed courses in physical education and wellness activities from one-credit to no-credit courses, and relocated them in continuing education. According to faculty members in the physical education department, these changes had not been referred to the appropriate governance bodies, but rather were effected by unilateral administrative action.

In late 1996 Dr. Padrón transferred some of the campus presidents to new campus presidencies or to district-level positions and filled vacancies by appointing interim presidents. While traditionally the campus senates had been consulted on the appointment of senior campus administrators, in these new appointments-as in many others he would make subsequently-Dr. Padrón acted without faculty consultation, not even with the senate presidents who (as one put it) "work very closely with the campus presidents." President Padrón also declined to follow the recommendation of the senates that he establish separate, campus-specific search committees for each campus presidency, choosing instead to create a single committee to screen all applicants for any of the presidential vacancies. Although the governance documents of the college (notably Policy I-80) did not require that President Padrón consult with faculty leadership before making such decisions, under the previous Miami-Dade administration the individual campus senates and the collegewide Faculty Senate Consortium had usually been consulted on similar staffing decisions.

The following spring, institutional finances again became a source of contention. In April 1997 President Padrón, citing problems with dwindling state funding and concerns about making additional long-term financial commitments, announced that he would delay the granting of "continuing contracts" (i.e., tenure) to seventy-six qualified faculty members and instead issued them one-year contracts. At the same time, nineteen administrators, including five deans and five associate deans, were notified that their appointments were being terminated; some were reassigned to other positions and two returned to the faculty. In

mid-June, however, despite the continuing talk of financial difficulties, the trustees approved a budget of \$210 million for the 1997-98 academic year, including a 5 percent salary increase for faculty and staff. The budget included a substantial allocation of funds for upgrading technology and adding new programs. The cost savings from the reorganization and staff cuts of the previous two years were cited as the source of the "new money." The freeze on the granting of continuing contracts remained in effect.

Another dispute had erupted earlier that spring, when President Padrón announced the appointment of several interim academic deans. The presidents of the campus faculty senates and of the Faculty Senate Consortium were notified of these appointments the night before they were announced. The administration's handling of these appointments, made at a time when the college was going through a highly contentious general review of its academic programs, prompted the president of the consortium, Professor Pamela Singer, to send a sharply worded memorandum, dated April 28, 1997, to Dr. Padrón:

I am both chagrined and dismayed that you fail to recognize that your actions in the matter of the appointment of the interim academic deans are not in accordance with the spirit of Policy I-80. The appointment of academic deans, even interim deans who will be serving for an entire year, is certainly a matter of educational policy which impacts directly on curriculum and instruction as described in Policy I-80. The faculty senates have been bypassed in the appointment of these deans.

. . . If this were the only incident of this type it could be considered a mistake, but issues of [not] following I-80 and the true meaning of shared governance have been consistent since you took office.

... The Consortium has indicated that [it] cannot accept this intrusion into the academic validity of the institution and have directed me to write this memo to you and to send copies to the Board of Trustees in the hope that the intent of I-80 will be followed in the future.

The subsequent handling of the searches for permanent academic deans in fall 1997 exacerbated these concerns. President Padrón had apparently requested that the Faculty Senate Consortium recommend criteria in connection with the deanship searches. After much discussion, consortium members unanimously proposed that candidates be required to have an earned doctorate and a minimum of five years of experience in academic administration, and that there be a national search conducted by separate campus committees composed of a majority of elected teaching faculty for each deanship position. The faculty subsequently learned that the administration had posted all of the position announcements before receiving the proposed criteria and the recommended procedures and had followed none of them.

Also in fall 1997, members of the faculty found themselves embroiled in yet another dispute with President Padrón. This dis-

pute resulted from the administration's unexpected announcement that SACS, the college's accrediting body, had determined that numerous Miami-Dade professors were teaching courses outside their formal fields of expertise and would therefore be required either to complete additional graduate study or to relinquish their previously assigned courses. Although SACS had notified the college of the problem two years earlier, the president had not shared the information with any faculty governance body or with any of the instructors directly affected-some of whom had been teaching such courses for more than ten years—and had proceeded unilaterally to negotiate a resolution with the commission. For many faculty members, the administration's handling of this matter reinforced their view that President Padrón did not intend to comply with the college's established requirement of consultation with the faculty on matters of academic concern.

The Faculty Senate Consortium, at its meeting on October 16, 1997, adopted a resolution, "The College's Position with Respect to Faculty Qualifications," emphasizing concerns that "faculty have been hired by the college to teach in disciplines in which the college determined that these individuals were well qualified"; that these individuals, "whose qualifications . . . would be considered beyond reproach, are being subjected to restrictions on what they may teach-whether in a discipline for which they were hired or administratively reassigned"; and that "the college had two years to comply with SACS recommendations, during which time faculty were not advised of the potential for any problems regarding their qualifications."

Amid the disputes over the deanship searches and the SACS accreditation matter, a group of faculty members who had been involved in four previously unsuccessful efforts to unionize the Miami-Dade faculty launched a new campaign to form a faculty union, to be called the United Faculty of Miami-Dade Community College (UFMDCC). They were assisted in their efforts by organizers from the national American Federation of Teachers (AFT) and from the Florida Education Association (FEA). Within a relatively short time, some 70 percent of the eligible fulltime faculty signed cards in support of a representation election, which was scheduled for early March 1998.

The MDCC administration undertook a vigorous campaign of its own to counter efforts of the union organizers, with President Padrón issuing a series of memoranda to the faculty that contained dire warnings about the consequences of a vote for unionization, including the suspension of the I-80 governance system. The president invoked a ruling, which the state's Public Employee Relations Commission (PERC)—the agency that oversees collective bargaining issues for all public employees in the state—had issued in 1978 in connection with a previous effort at unionizing the Miami-Dade faculty, that he represented as prohibiting the continuation of the existing governance structure should there be an affirmative vote for faculty collective bargaining.

After a campaign that was characterized by rancorous exchanges and inflammatory rhetoric on both sides, the election was held on March 3 and 4, 1998. With more than 90 percent of the eligible voters casting ballots, the faculty voted 403 to 182 in favor of UFMDCC, an affiliate of the AFT and the FEA, to become the faculty's certified bargaining agent.

Within a week after the representation election, President Padrón suspended MDCC's governance constitution, Policy I-80, as he had announced he would do if the union won. This action was taken despite the fact that the Faculty Senate Consortium had earlier passed a resolution that stated that the campus senates and the consortium would work cooperatively with the union. On March 9 Dr. Padrón sent a memorandum to the chairs of the campus Endowed Chairs Committees and of the campus Promotions Committees, notifying them that, "based on the suspension of I-80 and all committees derived through the I-80 process," their committees were also suspended. He instructed them to "transfer custody of all portfolios in [their] possession to the Academic or Executive Dean on [their] campus." In another memorandum of this same date, the president informed the consortium and campus senate leaders that their offices were being closed the following day and that each campus president had been designated "the official custodian of all College records, tapes, and computer disks relating to the Senates and the Consortium, as well as the equipment and space assigned to the Senates." On March 10 administrationdesignated personnel took possession of all campus senate and senate consortium files, documents, and archives. Some of these files included the personal notes and records of faculty governance officers. Office furniture was removed and the locks changed on the doors. (Within a short time, these offices were converted into classrooms and conference rooms that made them no longer usable for faculty governance purposes.)

In a March 16 memorandum that he sent to all faculty, President Padrón announced his appointment of a Faculty Commission that he charged with "considering and recommending methods and college-wide and campus structures for continued faculty participation regarding curriculum, instruction, academic and student support, and other academic matters." The commission was also to recommend selection procedures to enable the college provost and the campus presidents to make appointments to these new governance bodies. The seventeen (later sixteen) members of this ad hoc committee were all endowed chair recipients and/or former faculty senate presidents. On the following day, the chair of the Miami-Dade board of trustees, Martin Fine, issued a statement on behalf of the entire board, reaffirming the actions taken by President Padrón. It stated that the board "supports and applauds the actions already initiated . . . to involve faculty in recommending methods and mechanisms to ensure faculty input and participation in those elements of the College that are not within the purview of collective bargaining."

Within a month of the election of the union and the suspension of MDCC's established governance bodies, the president of the new faculty union, Professor Mark Richard, wrote to the chair of the Faculty Commission, Professor German Muñoz, to state the

union's "position that any new governance mechanism created is illegitimate. Anything set up by the committee should not be used to sabotage the current existing Senates." Professor Richard urged the commission "to stand up for the rights of the displaced senators" and to refuse to "be used as a tool to replace those who are the product of the democratic process." In a memorandum dated April 9, the college's labor counsel responded to Professor Richard's letter to Professor Muñoz, informing him that it was "clearly improper" for the union president "to try to coerce the group of employees serving on the Faculty Commission . . . either directly or indirectly or through their chairperson . . . into refusing to carry out the charge that was given to them as part of their official College duties."

The Faculty Commission completed its assignment by the end of April. On May 11 President Padrón distributed the commission's report to the entire campus. The report recommended "the creation of an academic and student support council on each campus and a parallel college-wide group," with representation (both elected and appointed) from the faculty as well as from the administration, the staff, and the student body. The report also set forth "guidelines for membership and selection." The president indicated his acceptance of the recommendations and announced his intention to implement them as part of a new "enhanced academic management structure" for the college, which included the redefinition of department chairs as full-time "managers."

In June 1998, elections were conducted and appointments were made to the College-wide Academic and Student Support Council (CASSC). On July 15 Provost Lukenbill announced the members of the 1998–99 college-wide CASSC, in addition to the appointments of deans of academic affairs and deans of academic and student support services. When classes began in fall 1998, elections were conducted and appointments were made to the Campus Academic and Student Support Councils (which also came to be referred to by the acronym CASSC). The basic elements of the new governance structure were in place as of November 1998, when the provost announced the names of the fivemember college-wide CASSC Coordinating Committee.

In the meantime, relations between the Miami-Dade administration and the United Faculty of Miami-Dade Community College had remained rancorous. In spring 1998, a controversy erupted over the administration's decision to prohibit the newly formed union from using the campus voice-mail system to communicate union-related information. UFMDCC filed an unfair labor practice charge with the Florida PERC, but PERC's general counsel found that the union failed to demonstrate that a unilateral change in terms and conditions of employment had occurred. In mid-July the union filed an amended unfair labor practice charge, reasserting the allegations set forth in its earlier complaint and adding a more detailed complaint about the administration's suspension of the college's I-80 governance system. This time PERC agreed to conduct a hearing. The matter was heading for litigation by summer 1999, when it was withdrawn by mutual agreement.

Against this acrimonious background, negotiations for an initial collective bargaining agreement had begun in fall 1998, with each side accusing the other of bad faith. In the months that followed, little progress was made. On August 21, 1999, after nearly a year of negotiations and periodic exchanges of various draft proposals, the administration put forward a new contract proposal. Two weeks later, on September 7, the union offered its own proposal, which it called the "Contract for a Better College," and which was dramatically different from that of the administration. At the bargaining session held on September 17, the administration, responding to the faculty union's draft contract, offered five pages of revisions to its August 21 proposal, most of which the union negotiators found unacceptable. At the end of that session, the union leaders declared the bargaining at an impasse. Among the stated reasons for its decision to declare an impasse was the union's concern that the administration's proposal eliminated "elected representative faculty from all aspects of college governance," and that, as a consequence, "the gains of the past twentyfive years in terms of collegial respect and recognition of [the faculty's] professionalism will be entirely eroded." Under PERC rules concerning the "Resolution of Impasses," a special master was appointed to conduct hearings on the numerous unresolved articles in the two competing contract proposals.

During the week of January 17, 2000, after three lengthy sessions before the special master at which the faculty union made a series of presentations on some of the contested issues, the administration's representatives requested a private meeting with union negotiators. The rest of that week the parties met together, without the special master, in an effort to resolve outstanding issues. They succeeded in reaching an agreement on January 25. The faculty's vote on ratification took place later that week, from January 29 to 31. The final tally was 381 to 88 in favor of accepting the contract.

On February 9, at a special meeting called for this sole purpose, the college's board of trustees ratified the collective bargaining agreement. The next day, President Padrón issued a memorandum, addressed to the entire faculty, entitled "The New Millennium Starts Now." In his memorandum the president stated, "The contract now takes effect; I look forward to a new era of cooperation." He went on to declare, "The contract ratification votes have confirmed the CASSC as the College's official forum for matters relating to academic and student support services. With new members scheduled to be selected later this spring, this is an opportune time for all of us, faculty, staff, administrators, and students to pledge to work together to assure the success of the CASSC concept for the sake of our students."

After receiving a copy of the memorandum, the Association's staff wrote to President Padrón and requested that he amplify his position regarding the status of the CASSC system. Provost Lukenbill responded in a letter dated February 24, 2000, and commented as follows: "the CASSC system and the prior I-80 system were debated at great length during bargaining. . . . The primary reason that the CASSC system prevailed and the parties abandoned any

notion of reviving I-80 is because the CASSC system is a far more fair system." Several members of the faculty, including union leaders as well as current members of either their campus or the collegewide CASSC, have written to the Association's staff, sharply disputing the administration's assertion that the ratification of the collective bargaining agreement has effectively resolved the governance issues under AAUP investigation. According to Professor Pamela Singer, vice president of the faculty union:

During the final bargaining sessions there was agreement to remain silent on shared governance and especially CASSC. If you read the contract, CASSC is not mentioned anywhere. Faculty did not vote to accept CASSC. The faculty opinion, as far as I have been able to discern, is that CASSC is an administratively controlled group and that academic issues at MDCC are totally under the control of the administration. There is no mechanism for input from a democratically elected group whom faculty have chosen to represent them on these issues. This was an issue we could not agree on in bargaining.

Last summer an article in the Miami Herald provided another sign of the level of disagreement and mistrust that have characterized relations between the faculty on the one hand and the Padrón administration and the college's board of trustees on the other. The newspaper reported that at a meeting held the previous November 5, two days after the Florida gubernatorial election, the board of trustees, whose members were all appointed under a Democratic governor and would soon be replaced by the newly elected Republican governor, had voted to extend President Padrón's contract for four more years, until October 2002. According to the Herald, the board's outgoing chair and vice chair cited the then-pending union negotiations and the resulting "unprecedented [institutional] instability" as the reasons for the early extension. "We knew Eduardo was doing a very good job for us," the vice chair reportedly said. "We knew it would be very difficult for any chief executive officer to protect the institution and its students from the onslaught we knew would come unless the governing body gave him security to act without fear of reprisal." At the same November 1998 meeting at which it extended Dr. Padrón's contract as president, the outgoing board also voted to grant him a "continuing contract, at the academic rank of professor, with a 10 percent reduction in base salary effective twelve months after contract expiration." The new board, which was appointed in spring 1999, endorsed the contract extension.

Faculty leaders were angered by reports of the board's action. The faculty union sought to take legal action to have the president's contract extension rescinded, claiming that the meeting was illegal because it had not been properly publicized and was held at an unusual time and place not accessible to the public, but the court declined to hear the case. The union subsequently filed a second amended complaint, which remains pending as of this writing.

The advice and assistance of the American Association of University Professors on the foregoing matters was initially requested in early April 1998 by Professor James Jackson, who had been president of the Faculty Senate Consortium at the time it was suspended. After reviewing a file of documents provided by Professor Jackson, the Association's staff wrote on April 16 to President Padrón and Martin Fine, who was then chair of the board, setting forth concerns about the suspension of the college's system of governance. The staff took issue with the stated basis for the administration's action and questioned the procedures the president had followed in initiating the creation of a new governance structure for the college.

Responding on May 15, President Padrón stated that his administration's action had been taken in order to ensure that the governance structure "does not in any way infringe on the rights of the union in the collective bargaining process and that we communicate exclusively with the proper union representatives in those matters related to collective bargaining." He offered a positive description of conditions at the college and gave assurances of the administration's "commit[ment] to full faculty participation in curriculum matters and academic processes." He concluded by emphasizing that the administration's goal "is to maintain the exemplary cooperation between administration, faculty, and staff that has characterized Miami-Dade Community College operations in the past."

Following receipt of additional documents from members of the MDCC faculty, the staff wrote again to President Padrón on June 25. The staff expressed concern about the new structures and processes of governance that had been recommended by the presidentially appointed Faculty Commission and implemented by the administration without affording the faculty as a whole an opportunity to review and discuss their merits. The staff expressed additional concern about the reported reduction in the faculty's responsibility for academic and curricular matters at the college and about changes in the role and status of department chairs. Responding on July 7, President Padrón rejected the staff's characterization of the changes and stated his belief that "the new College Academic and Student [Support] Council is far more representative and inclusive than the College's previous . . . committees." He informed the staff that the union had initiated litigation against the administration and that, accordingly, on the advice of counsel, he would be unable to comment further.

In fall 1998, with no resolution of the governance issues of concern in the offing, the Association's general secretary authorized an investigation, and on November 18 the staff so informed the MDCC administration.

In early December, Provost Jeffrey Lukenbill met by appointment with the staff in the Association's Washington office. He conveyed the Miami-Dade administration's perception that the Association lacked objectivity in dealing with the MDCC situation, given the AAUP's own involvement in faculty collective bar-

gaining on other campuses and its reliance on union sources for most of its information about conditions at the college. Speaking on behalf of President Padrón, he requested that the Association suspend its inquiry pending both negotiation of a collective bargaining agreement and resolution of the union's unfair labor practice complaint. Following the provost's visit, President Padrón wrote to inform the staff that, on advice of counsel, the college's administration would not cooperate with the investigation; he asked again that the Association not proceed. The staff responded on December 22, describing the basis of the investigation and indicating that the process would go forward; the staff also provided the president with the membership of the undersigned ad hoc committee and the dates of its planned visit.

By letter of February 1, 1999, President Padrón once again questioned the Association's decision to proceed, reiterated the administration's decision not to cooperate, and charged the staff with "approaching this matter as a 'faculty union' versus the 'College administration,' and not as a concern about overall governance." On February 12 the staff replied, emphasizing to the president the investigating committee's desire to hear a broad spectrum of views on the issues that divided the MDCC community and again requesting the administration's assistance in identifying individuals to meet with the committee.

The investigating committee, after examining extensive documentation assembled by the Association's staff relating to the above-described sequence of events, visited Miami-Dade Community College on March 5–6, 1999. Invitations to meet with the committee were previously sent to all of the faculty of the college by local members of the AAUP. The investigating committee interviewed a total of eighty-seven faculty members, with representation from all of the campuses. Most were interviewed in groups of four or five, some in larger groups, and individual interviews also took place. The committee encouraged communications from all points of view and perspectives.

Despite repeated requests from the AAUP staff and subsequent requests by committee members, the administration of Miami-Dade Community College held to its refusal to participate in the investigation. The investigating committee wishes to note, however, that Provost Lukenbill personally greeted committee members at the Wolfson Campus, provided meeting rooms at the various campuses, and was at all times cordial. The committee regrets the unwillingness of the administration to cooperate with the investigation, but it believes that the interviews it was able to conduct at the college and the voluminous materials it was able to review both before and after its visit provided a sufficient basis for the findings and conclusions that follow.

III. The Issues

1. Governance Policies in Effect at Miami-Dade Community College Prior to March 1998. Generally accepted standards of academic government are enunciated in the Association's

Statement on Government of Colleges and Universities.² This statement rests on the premise of appropriately shared responsibility and cooperative action among governing board, administration, and faculty in determining educational policy and in resolving educational problems within the academic institution. It also refers to "an inescapable interdependence" in this relationship that requires "adequate communication among these components" and "full opportunity for appropriate joint planning and effort." It further asserts that "the interests of all are coordinate and related, and unilateral effort can lead to confusion or conflict."

Since its early years, Miami-Dade Community College had what the investigating committee considers to have been a mature and quite well-developed structure of shared governance. Prior to March 1998, the Governance Constitution of the Faculty Senates (better known as Policy I-80, or simply I-80) was the principal governance document for the college. That document, initially adopted by faculty vote in 1969 and approved by the district board of trustees as official college policy, created a system of faculty senates on the individual campuses; a subsequent revision of the policy in 1977 established a college-wide consortium of senates. The preamble of I-80 stated that MDCC, "by this instrument, cooperatively establishes participative governance between its faculty and administration." The preamble also stated that "both faculty and administration affirm and accept a proper share of responsibility to promote the harmonious functioning of all parts of this association." Article I ("Operation") went on to provide that

The Faculty Senates and the Consortium shall constitute the primary channel for faculty-administration participatory governance. The Faculty Senates and Consortium, as the official voice of the faculty, have as their duty service to the community college through the active study and debate of issues of mutual concern to the administration and faculty, and the responsibility to recommend actions which will expedite the satisfactory solution of issues.

Each campus senate was composed of full-time faculty representatives elected by their departmental or disciplinary constituency to serve a two-year term. Faculty officers for the campus senates consisted of a president, vice president, secretary, and parliamentarian, and one or more members who served on the college-wide consortium. The campus senate president was an ex officio voting member of the campus Academic Affairs Committee and the college-wide President's Council, which dealt with various matters of general institutional concern. The senate president also served as a voting member of the Faculty Senate Con-

sortium (discussed below). On each campus, the faculty senate president and the campus president together submitted nominees to the district president and the consortium president for appointments to various college-wide committees under the I-80 governance system.

Policy I-80 described the jurisdiction of the faculty senates as follows:

The Faculty Senates shall be primarily concerned with the initiation, review, monitoring, and evaluation of college-wide policies and procedures and campus governance dealing with: (a) matters of educational policy, including curriculum, instruction, degree programs, and registration; (b) matters of faculty interest, including personnel policies, evaluation, promotion, academic freedom, salary, fringe benefits, conditions of employment, campus reorganization, budgetary processes, student affairs, faculty appeals and grievances.

The Faculty Senates shall not be bypassed in the initiation or revision of policies and procedures concerned with matters described [in the above paragraph] unless such matters are mandated by State Law or State Board of Education Rules or factors beyond the control of the administration. The Faculty Senates and administration shall maintain a mutually agreed-to arrangement for handling such policies and procedures.

Each campus senate was also governed by its own separate bylaws, which emphasized that the senate was to act as the official voice of the campus faculty within the participatory governance framework of I-80 and as "a full partner with the campus administration in development and initiation of all matters related to educational and campus governance policies and procedures."

The Faculty Senate Consortium (established with the aim of providing a mechanism for intercampus coordination between and among the individual campus senates and in order to ensure greater faculty influence in the development of college-level policies) was composed of the presidents of each of the campus senates as well as an additional number of campus representatives determined by the number of full-time faculty on each campus. These representatives were elected from within each campus senate by its senators. The consortium president was elected by members of the consortium for a term of one year, and the consortium met monthly throughout the academic year. The consortium president cooperated with the president of the college in jointly appointing committee members from the various campuses to college-wide standing committees, including the Academic Affairs Committee, as well as to ad hoc committees and task forces. The consortium president was an ex officio voting member of the President's Council and also attended, without a vote, the monthly meetings of the district board of trustees.

The jurisdiction and authority of the consortium was defined in Article V of Policy I-80:

^{2.} The Statement on Government was jointly formulated by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges. It was adopted as policy by the AAUP in 1966. At that time, the latter two organizations, while not officially endorsing the statement, commended it to the attention of their respective members.

The Consortium will have jurisdiction over those collegewide matters referred to it by the individual faculty senates. Moreover, the Consortium will function as trustee of the faculty senates and faculty members about matters of faculty concern by studying, discussing, making recommendations to and consulting with the college president. The Consortium may also originate consideration of college-wide matters by sending recommendations to all faculty senates.

Recommendations of the Consortium will be delivered to the president of the college. Within ten (10) work days, the Consortium must be informed, in writing, that the college president has accepted, requests a reconsideration, requests an extension of an additional ten (10) work days, or rejects the recommendation. . . . If no aforementioned action is taken by the college president within ten (10) work days of receipt, the Consortium may, upon two-thirds vote, request of the secretary of the district board of trustees that the item be placed on the agenda of the next meeting of the . . . board ... for their consideration.

The consortium thus coordinated proposals received from the various campuses, initiated resolutions for campus senates to consider, and interacted with the college president as the voice of the faculty.

It should be noted that prior to March 1998, in addition to the senates and the consortium, the governance system at Miami-Dade afforded numerous other opportunities for faculty service in a wide variety of committees and task forces, both senate- and non-senate-based, campus- as well as college-level, elected and appointed, standing and ad hoc. The college-wide Academic Affairs Committee, for example, chaired by the district provost and including the academic dean and one faculty senate representative from each campus, was charged with all curricular and other matters relating to academic policy and reported to the President's Council. Similar department-based academic affairs committees also existed on each campus. Other standing campus-level and college-wide committees, with jointly appointed faculty membership had responsibility for dealing with such matters as faculty promotions and the selection of endowed chairs.

The investigating committee finds that the stated governance policies and procedures at Miami-Dade Community College and the structures of institutional governance as set forth in Policy I-80 and derivative documents were in essential conformity with Association-supported standards.

2. Actual Conditions of Governance under the Padrón Administration Prior to March 1998. At Miami-Dade Community College over the years, the campus senates, the senate consortium, and their various associated committees were very active bodies. The meetings of the senates, in particular, appear to have afforded forums for free and open discussion of faculty concerns about educational questions and about the administration and

operation of the college. The consortium presidents played an especially prominent role in overall institutional governance, as did their campus senate counterparts on the individual campuses. The information available to the investigating committee indicates that the consortium and campus senate meetings at MDCC fulfilled the functions called for under the Association's Statement on Government and provided more-than-adequate vehicles for representatives of the faculty to bring their collective judgment to bear on decision-making processes within the college. Generally, faculty members reported to the investigating committee that the prior administration, under President Robert McCabe, tended to respect the faculty's judgment on those matters where the faculty was acknowledged under Policy I-80 to have significant responsibility. Though the faculty's role was recommendatory and advisory, the faculty had a sense that it was participating meaningfully in institutional governance at both the campus and the district levels, and that the administration took its recommendations and advice seriously. Despite occasional unresolved disagreements over governance matters, especially during President McCabe's last years in office, a generally cooperative relationship and a willingness to compromise existed between the faculty and the Mc-Cabe administration. The documents available to the investigating committee as well as its interviews with numerous members of the faculty suggest a growing pattern of increased authority assumed by the Padrón administration and a diminished faculty role. The president repeatedly ignored or bypassed duly constituted faculty bodies when they did not see things as he would have liked. The disappointment and frustration over these developments seem to have been felt by an increasing segment of the faculty, especially among its elected leadership, and doubtless played a significant part in the decision to move to collective bargaining, as discussed below.

Concerns about the president's lack of regard for the faculty's views were expressed by faculty leaders on numerous occasions. Complaints were made that the governance structures were being treated as mere window dressing. As one faculty member put it, the faculty was left "to react rather than to be a participant in the governance process." According to the minutes of the Faculty Senate Consortium meeting of October 28, 1996, Consortium President Singer offered her "impression that Dr. Padrón sees some very specific differences in the roles of administration and faculty. He sees the role of administration to be the chief decisionmaking body and the faculty as those who implement those decisions. He sees his responsibility as coming up with the concepts of things as chief administrator, and ours as the implementers. We must be careful about fighting about which issues we feel are important to us." The following month, on November 21, the consortium adopted a resolution, originated by the North Campus Faculty Senate, which stated that:

The Faculty Senates and the Faculty Senates' Consortium reaffirm their support of shared governance as provided by Policy I-80, and that with that reaffirmation they call to the attention of all participants in that shared governance—faculty and all levels of administration alike—that in making decisions affecting services or programs offered to students and affecting the status or the work of the faculty, input based on the experience, knowledge, and wisdom of that faculty must be considered *prior* to specific decisions being made. (Emphasis in original.)

President Padrón responded to the resolution by memorandum of February 3, 1997. "I wholeheartedly support the concept of participatory governance," he stated, "and am committed to continuing to make every effort to be inclusive at every opportunity where there are deliberations that have implications for the future direction of our institution." He then cited the preamble and Article I of I-80 and declared that he was "in total agreement with the resolution to the extent that it concurs with the above statements."

In a "Dear Colleagues" letter of February 16, 1998, written as part of the union organizing campaign, two of the faculty's elected leaders, Professors Pamela Singer and James Jackson, respectively the 1996-97 and 1997-98 consortium presidents, provided a summary of the principal governance disputes with the Padrón administration over the previous two years. They sought to demonstrate that, despite the faculty's best efforts "to make I-80 work," the president was not interested in sharing decisionmaking. "For years," Professor Singer commented, "we've tried to make 'shared governance' work. But we need a system of checks and balances and the mutual respect that only a legally binding contract can provide by placing the faculty on a level playing field with college administration. . . . [C]ollective bargaining is the best opportunity we have to achieve professional dignity and hold administrators and legislators accountable for their actions." According to Professor Jackson, "Since the current college administration took office . . . , the input of faculty has in most cases been ignored. . . . MDCC faculty must have the right to participate in the decision-making processes at the college in order to preserve the quality of academic programs." In their February 16 campaign letter, Professors Singer and Jackson concluded as follows: "Despite what you have been told, faculty senates and collective bargaining can and do work together at almost all community colleges that have unions. Both faculty senates and the union represent the same democratic and collegial spirit."

As part of the administration's vigorous antiunion campaign, President Padrón, for his part, denied that a lack of shared governance was a problem at the college. "I am pleased to say," he wrote to the faculty in early February 1998, "that during my two-year-plus tenure as college president, there has been an unprecedented level of [faculty] involvement in college decision-making." He was later quoted in the press as stating that he had always taken the faculty's views into consideration before making a decision. "I didn't agree with every recommendation. I have to say that. Because otherwise, you don't need a president. But I agreed,

I would say, with more than 90 percent of their recommendations." In a memorandum to the faculty dated February 25, 1998, and entitled "Union Distortions: Setting the Record Straight," Dr. Padrón offered a stinging rebuttal to the Singer-Jackson letter of February 16. He accused them and their fellow faculty union leaders (many of whom had also served in elective leadership positions in the faculty governance structure) of "not want[ing] I-80 to work. They create divisions and discord, mislead, confuse, and worst of all, stifle the opposition. I-80 is not the problem. The problem is a small group of faculty who use I-80 to further their own personal political agenda. . . . These people . . . have a very real conflict of interest. Their union objectives would be furthered if I-80 could be undermined by their manipulations."

In a memorandum addressed to the faculty on the eve of the union vote, President Padrón commented on the seeming irony that "the union leaders have criticized the administration because they contend that the I-80 process has been ineffective." Some months after the union vote, he made a similar comment to the press: "[Union leaders] were saying 'I-80 is ineffective, I-80 doesn't work.' Then the election takes place, and all of a sudden they reverse that. All of a sudden, it's 'I-80 is wonderful, we want I-80."

Notwithstanding the president's observation, the investigating committee believes that the faculty of Miami-Dade Community College had good reason to complain about deteriorating conditions of academic government under the Padrón administration prior to March 1998. The committee finds that the MDCC administration denied the faculty its previous role in institutional governance as provided for under the college's Policy I-80 and as called for under the Association's Statement on Government.

3. Collective Bargaining and Governance: The Suspension of Policy I-80. In a footnote to the Statement on Government, the Association holds that it "regards collective bargaining, properly used, as another means of achieving sound academic government. Where there is faculty collective bargaining, the parties should seek to ensure appropriate institutional governance structures which will protect the right of all faculty to participate in institutional governance in accordance with the 1966 Statement." The Association's Statement on Collective Bargaining notes that

the presence of institutions of faculty governance does not preclude the need for or usefulness of collective bargaining. On the contrary, collective bargaining can be used to increase the effectiveness of those institutions by extending their areas of competence, defining their authority, and strengthening their voice in areas of shared authority and responsibility. The Association therefore affirms that faculties at both public and private institutions are entitled, as professionals, to choose by an election or comparable informal means to engage in collective bargaining in order to ensure effective faculty governance.

Finally, the Association's Statement on Academic Government for Institutions Engaged in Collective Bargaining, in upholding traditional shared governance standards, emphasizes that "it is in the best interest of all parties to ensure that the institutions of shared governance function as smoothly and effectively as possible. Collective bargaining is one means to that end. . . . Collective bargaining should not replace, but rather should ensure, effective traditional forms of shared governance."

As noted above, among the leading arguments advanced by faculty proponents of unionization at Miami-Dade Community College was that shared governance as embodied in Policy I-80 was not working in areas of primary concern to the faculty, and the hope that the faculty union would "ensure faculty governance consultation" and enable faculty to "win a true say in how MDCC is run." If, as seems to have been the case, the faculty members who voted for the union expected that collective representation at Miami-Dade would further the goals of shared governance, their expectations were soon to be dashed.

On March 9, 1998, less than a week after the Miami-Dade faculty voted overwhelmingly to unionize, President Padrón suspended the college's system of governance, including the campus faculty senates, the college-wide consortium, and virtually all college-wide and campus-based committees, including elected committees not associated with or appointed through the faculty senates. Even before the vote on unionization, and as part of the administration's efforts to persuade the faculty not to support collective bargaining, the president issued a series of memoranda to the faculty, warning of the consequences of a positive vote. In a memorandum of February 2, the president offered several "reasons why" he was "convinced that unionization is bad for Miami-Dade faculty and bad for the College as a whole." Among his reasons was that "unionization will impact the College's participatory governance structure." He wrote:

The College's current governance structure enables broad input from a large number of faculty members on a wide variety of matters. If the faculty becomes unionized, the Governance Constitution (I-80) would have to end. It would be replaced by a system in which the faculty would be represented by a few union leaders. Only those faculty members who become union members and pay costly dues will have any say in the selection of these union leaders. The rest of the faculty will have no say whatsoever. If the faculty unionizes, the College would engage, as required by law, in good faith collective bargaining with the union representatives. The College would be forbidden, by law, to negotiate with anyone else on wages, hours, and working conditions. A reading of Policy I-80 reveals that virtually all of the participatory matters covered by I-80 involve wages, hours, or working conditions in some way or another. Thus, I-80 or broad-based participatory governance would, of necessity, be eviscerated and replaced.

At the end of this memorandum the president reemphasized that with unionization "faculty input in governance would be limited to, and concentrated in, a few people," and he concluded by urging the faculty "to vote against unionization."

Three weeks later, and one week before the union election, President Padrón "dropped a bombshell," as the Miami New Times put it. In another memorandum to the faculty, this one dated February 24 and entitled (in all capital letters), "FACT: IF THE UNION WINS, POLICY I-80 WILL BE SUSPENDED," the president announced that the existing system of governance, "including all of those functions and activities which are dependent on the I-80 process," would be "suspended immediately" if the faculty voted to unionize. "This is not merely an opinion," he wrote. "It has already been decided by PERC." The memorandum contained several references to a 1978 PERC ruling that had been issued during an earlier (unsuccessful) attempt to organize the Miami-Dade faculty. According to the president, the ruling provided that "continued implementation of I-80 would be in conflict with the rights of the union and would be a violation of the collective bargaining law."

On March 9, 1998, just a few days after the representation election and prior to the certification of the election results by PERC. President Padrón sent another memorandum addressed to "All Full-Time Faculty," announcing that "effective immediately, Policy I-80, including all of those committees, functions, and activities which are established through I-80, are suspended." In his memorandum, the president again cited the 1978 PERC decision as the basis for the administration's action, asserting that "implementation of I-80 would conflict with a union's rights as an exclusive bargaining representative."

In evaluating this assertion, the investigating committee believes that a thorough review of the twenty-year-old PERC decision is in order. That decision had been sought at the time by Miami-Dade's board of trustees, which had petitioned the commission for a declaratory ruling on the following issue: "In view of the pendency of a petition for certification of an exclusive collective bargaining representative for faculty members, would continued implementation of and/or operation under Petitioner's Governance Constitution [I-80] violate any of the provisions of Section 447.501, Florida Statutes?" In answering that question, the commission first noted that the governing board's petition appeared to be based upon the assumption that the collective bargaining process and collegial governance (as set forth in I-80) were mutually exclusive. The PERC decision explicitly rejected this conclusion, stating that, "properly implemented, there is room for a fruitful scope of operation for both." As authority for this conclusion, the commission cited and quoted from a 1976 decision by New Jersey's PERC, which involved Rutgers University and its faculty bargaining representative (the AAUP). The New Jersey decision that the Florida commission quoted with approval stated that the systems of collegial governance and collective bargaining can function harmoniously without interfering with one another

so long as the collegiality system avoided dealing with mandatory subjects of bargaining under state law.

The Florida PERC decision then addressed "wages, hours, and terms and conditions of employment," the mandatory subjects of bargaining under Florida's statute governing public employee collective bargaining. The commission declared that, once an exclusive bargaining representative is certified, the collegial governance structures cannot continue their jurisdiction as to any mandatory subjects of bargaining—unless the exclusive bargaining representative and the public employer agree to such an exercise of jurisdiction. PERC's analysis thus suggested that there is no problem under Florida law for a collegial governance structure (such as I-80) to be modified or implemented so that it may continue to have jurisdiction over such nonmandatory subjects of bargaining as are part of its stated jurisdiction.

Finally, the 1978 PÉRC decision noted that the Miami-Dade board of trustees had filed its petition during the pendency of a representation election petition. The commission emphasized that during this period the employer must maintain the status quo as to mandatory subjects of bargaining. The commission concluded by holding that, during the pendency of a representation petition, a public employer would commit an unfair labor practice under Florida law if the employer continued the implementation and/or operation of the existing governance structure (I-80) in such a manner as to alter the status quo in regard to mandatory subjects of bargaining. It did not hold that once the faculty voted to be represented by an exclusive bargaining representative, the public employer was required to abolish the entire existing shared governance structure. The PERC ruling states only that "if the processes of collective bargaining and collegiality are to coexist, some limitations must be placed upon the exercise of jurisdiction by the entities created and authorized by the Governance Constitution." The ruling goes on to state that "it is, of course, possible that through the collective bargaining process the exclusive bargaining representative could agree to permit the entities created and authorized by the Governance Constitution to exercise jurisdiction over matters which, but for such agreement, would be within the province of the exclusive bargaining representative."

Although PERC's 1978 ruling is silent on the need to suspend or eliminate the faculty senates, even when their jurisdiction overlapped that of the union, the Miami-Dade administration contended that the college's system of governance played such a pervasive role in all aspects of the institution's affairs that it would "encroach upon the province of a certified collective bargaining representative," and that, as a consequence, the administration had no choice but to suspend the faculty senates and abolish the shared governance arrangements in I-80. The college, President Padrón wrote to the faculty on March 9, is "now obligated to-and willdeal exclusively with Local 4253 on matters of the unionized faculty's wages, hours, and other conditions of employment."

Union president Mark Richard, in a March 12 letter to President Padrón, responding to the president's March 9 memoran-

dum announcing the suspension of I-80, asserted that the administration's action was unnecessary and showed "utter disrespect for the faculty." "We would remind you," he wrote, "that the object of MDCC's Governance Constitution is to provide for participatory governance or collegiality by fostering the sharing of responsibility between the administration and the faculty in the governance of the college. The Governance Constitution establishes campus faculty senates and the college-wide consortium and empowers those bodies to make recommendations on a number of subjects which are not terms and conditions of employment." Professor Richard proposed "enter[ing] into discussions with [the president] for the purposes of determining which functions and responsibilities of the Faculty Senate conflict with or impinge on the rights and duties of the certified bargaining agent. . . . Such discussions should begin as soon as possible following the certification of UFMDCC, AFT Local 4253 as the bargaining agent for all full-time teaching faculty." "To the extent," he added, "that duties and responsibilities of the Faculty Senate do not involve determinations regarding wages, hours, and conditions of employment, the Faculty Senate should continue to operate." The investigating committee has been informed that no such conversations as were proposed by Professor Richard ever took place. According to a report in the local press, President Padrón insisted that, despite the fact that "the union endorsed the continued existence of the senates, . . . there was no way to prevent senators from discussing union issues. That might constitute unfair labor practices, for which the union could sue the [college]"-a strange statement considering that a month after the newspaper article appeared, the union filed an unfair-laborpractice charge based on the administration's suspension of I-80.

In the investigating committee's view, the unambiguous language used by PERC in its 1978 decision-particularly the limitation of its holding to mandatory subjects of bargaining-makes it difficult to understand how this decision could have been used by the Miami-Dade administration as support for its conclusion that the college was legally obligated to suspend the operation of I-80 as well as the numerous governance committees not dealing with mandatory subjects of bargaining immediately following the March 1998 representation election.

Whatever its deficiencies in practice, for nearly three decades the governance system set forth under Policy I-80 provided the authorized forums for the expression of faculty concerns on all college matters. The Miami-Dade administration, as noted above, interpreted the PERC decision as requiring action with respect to governance. Whether or not the administration had legal grounds for its action—and whether it was obligated to take some action—the investigating committee believes that the administration should have at least entered into discussions with the union about the possibility of eliminating specific faculty senate functions that conflicted with the union's jurisdiction while retaining the senates and other established governance bodies to deal with academic policy issues rather than totally suspending them. The investigating

committee finds that the administration's peremptory suspension of I-80, without considering appropriate modifications thereof after meaningful faculty consultation, was violative of generally accepted academic practice and of Association-supported standards.

Finally, the investigating committee is concerned that the administration's seizure of senate files, its changing of senate office locks, and the other dramatic steps it took within twenty-four hours of the suspension of I-80 suggest that this entire action involved something more than perceived legal obligations arising out of the 1978 PERC ruling. The investigating committee particularly regrets not having been able to discuss this matter with the administration, because it is left with the suspicion that the action to suspend I-80 might have been taken, as many faculty members have alleged, in retribution for the faculty's decision to support collective bargaining and the fact that recent and past leaders of the senates and especially of the senate consortium had been prominent advocates of unionization.

4. Structures of Governance at Miami-Dade Subsequent to March 1998. With regard to the faculty's exercise of its role in institutional governance, the Statement on Government provides that

Agencies for faculty participation in the government of the college or university should be established at each level where faculty responsibility is present. An agency should exist for the presentation of the views of the whole faculty. The structure and procedures for faculty participation should be designed, approved, and established by joint action of the components of the institution. Faculty representatives should be selected by the faculty according to procedures determined by the faculty.

The agencies may consist of meetings of all faculty members of a department, school, college, division, or university system, or may take the form of faculty-elected executive committees in departments and schools and a faculty-elected senate or council for larger divisions of the institution as a whole.

Implicit in the foregoing passages is the expectation that the faculty will play a primary role in the establishment as well as in any subsequent revision or modification of the institution's governance structure. These passages also make it clear that the faculty as a whole should determine who its representatives in the governance structure will be and how those representatives will be chosen.

The Statement on Government further provides that "the faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, . . . and those aspects of student life which relate to the educational process." The particular authority and primary responsibility of the faculty in the decision-making processes of the academic institution in these areas derive from its special competence in the educational sphere.

It follows from this proposition that the faculty should play an active and meaningful role in the development as well as in the revision of institutional policy in those areas in which the faculty has primary responsibility.

Within days of abolishing the existing governance structure under Policy I-80, President Padrón announced the appointment of a seventeen-member Faculty Commission to redefine the structures of governance on matters not including wages, hours, or working conditions, "to avoid offending or usurping the collective bargaining process" (as the college would later state its position in response to the faculty union's unfair-labor-practice charge). Despite its title, nearly two-thirds of the commission's members were chairs and coordinators and not in the faculty bargaining unit. At its first meeting on March 25, 1998, the commission was given a tripartite charge:

to recommend to the Executive Committee college-wide and campus structures for faculty participation regarding curriculum, instruction, academic and student support, and other academic matters;

to recommend to the Executive Committee selection procedures to enable the College Provost and the Campus Presidents to make appointments of faculty to college-wide and campus academic/student support groups;

to recommend to the Executive Committee methods for ensuring broad faculty participation in academic/student support matters.

In the report it issued later that spring, the commission recognized its limited scope, when it stated that its "charge was not to replace the faculty senates, but to conceive a new structure for faculty participation in academic affairs in place of the Academic Affairs and Student Services Committees."

The commission members, according to their report, "saw this as an opportunity to create something new, something that would better address current needs and concerns, provide a broader level of participation, and allow for more inclusive involvement of all those who play a role in the academic work of Miami-Dade Community College." The commission reported that its "deliberations . . . were guided by [several] principles," including the following: "that faculty representation on new academic/student support structures be predominant to guarantee that primary responsibility for the quality of educational programs reside with the faculty in accordance with the criteria of the Southern Association of Colleges and Schools"; "that the composition of all campus and College-wide academic/student support structures be holistic, including faculty, administration, staff, and students, to ensure that decisions affecting specific areas are made with input from those areas"; and "that collegiality be encouraged to foster a shared sense of working together and to promote enlightened cooperation among faculty, students, administrators, and staff." (Emphasis in original.)

The commission's report called for the creation of new agencies of institutional governance, specifically, an Academic and Student Support Council on each campus, along with a college-wide Academic and Student Support Council (as previously noted, both councils came to be referred to by the acronym CASSC). The thirty-nine-member college-wide CASSC was to include eleven members elected by the faculty, with the remaining members appointed by the administration from faculty, administrative, staff, and student ranks. Each campus CASSC was to be composed of a similar mix of appointed and elected members, with the size of the faculty and administration representation on a given council dependent upon the size of the campus.

The recommendations of the commission were accepted by President Padrón and adopted by the board of trustees on June 16. The administration immediately proceeded to implement these recommendations, without affording the faculty as a whole an opportunity to review them or to discuss their merits. (The administration appears to have given other signs of its pleasure with the work of the commission: of the sixteen faculty members who served on that body, eight were subsequently appointed to new administrative positions either as department chair or associate dean.)

The investigating committee, having found reason to question the administration's action in unilaterally abolishing the I-80 governance structure, finds that having a presidentially appointed committee prepare recommendations for a new structure of governance that were accepted and implemented, without any consultation with the general faculty, was likewise violative of Association-supported standards.

Faculty concerns about the CASSC system have not been limited to the process by which that system was established. These concerns extend to the system's actual functioning since it was put in place and to the limited nature and extent of the faculty's role in governance at Miami-Dade since the abolition of I-80 and the creation of successor instruments of governance.

The administration asserts that the thirty-nine-member college-wide CASSC "affords faculty, staff, and students increased involvement in academic decisions" and allows for greater diversity in faculty representation—in terms of discipline, rank, ethnicity, and campus affiliation—on both the campus and college levels than was the case under Policy I-80.³ While they acknowledge the administration's claim about the diversity of faculty representation, most of the faculty members who spoke to the investigating committee during its visit to the college were very critical of the composition and functioning of the CASSC system. Information provided to the committee—some of it

from members of one or another of the CASSCs—subsequent to its visit seems to confirm these views. Faculty members complained to the investigating committee that the councils are structured as "top-down" operations and function as administratively controlled bodies. The thirty-nine-member college-wide CASSC, they point out, while it includes twenty-two faculty members, has only eleven elected faculty representatives, with the other eleven appointed by the administration. Because not every major discipline from every campus may elect a faculty representative each year, some areas are not represented at all. In addition, many faculty members apparently declined to stand for nomination or to vote in the inaugural election as a protest against the legitimacy of the CASSC system.

According to one faculty member at the Homestead Campus:

There is no way for the average faculty member to have a voice in college governance since there is no longer an elected faculty body that offers input to administration. The union's role is confined to working conditions. What about all other aspects of the college about which faculty should be concerned? There is currently no way for faculty to make their concerns heard other than through CASSC.

CASSC deals with academic affairs and student services issues. What of all of the other concerns that make up college life that are not within the charge of the CASSC? The administration apparently does not seem interested in seeking representative faculty input on a wide variety of issues. They instead seem to want to confine the voice of faculty to just specific course concerns and student issues. Further, even in these targeted areas of allowable input upon which the CASSC is focused, can one assume that with a one-third elected faculty representation (by discipline, not even by open vote) the dissenting voice can really be heard?

One faculty member from the Kendall Campus referred to CASSC as "a shell, intended by the administration to convey the idea that faculty (and support staff) have active advisory roles when they do not." Still another professor, an elected member of his campus CASSC, wrote to the Association's staff that "we serve in this select group merely to consult and share ideas with our dean—she reviews the coming campus-wide CASSC agenda with us." He detailed his experience as follows:

[M]ore than fifty members of the campus-wide CASSC meet monthly to decide on issues. Our vote is then taken to a college-wide committee and final discussions are held. The problem is that the several hand-selected members of the forwarding committee—chaired by our Dean—might or might not have their own agendas. They are in no way obligated to vote in accordance with the campus decisions. The members were hand-picked to represent specific academic or work areas. The conclusion is that fifty plus people might—repeat

^{3.} Responding to a prepublication text of this report, Provost Lukenbill further stated that "total faculty membership and involvement under CASSC has increased; 125 faculty currently hold membership in a campus or college CASSC committee—one out of every six faculty at the college [is] involved in academic and student affairs decisions." (Emphasis in original.)

"might"—have a representative in the person of the Dean but not necessarily. Others in the group can vote any way they choose. Now less than half of the campus committee is composed of faculty members—one-half elected, one-half hand-picked by administrators. So we have less than 25 perent of the campus voice, and therefore possibly less than 25 percent of ONE vote in college-wide decisions.

Faculty members who met with the investigating committee reported that administrators set the agendas for CASSC meetings, administrative officers do most of the presentations, and, in the case of campus-level CASSCs, the dean or the dean's designee "carries the message onward" to the college-wide CASSC. That body, according to one of these faculty members, "exists mostly for administrators to inform the college representatives what is happening." Curricular proposals are introduced by administrators, voted on in CASSC, and declared institutional policy without the matter being referred back to the general faculty for discussion. In addition, despite assurances that the faculty would be kept regularly informed of the work of the campus and college-wide CASSCs, the investigating committee was told that the faculty has not been notified of scheduled meetings nor given copies of the agendas or minutes or these meetings. Faculty members are generally not informed of CASSC decisions or actions unless they are directly affected or the actions have implications for their departments.

The investigating committee also received complaints that the college-wide CASSC makes decisions on curricular and other academic matters on which the faculty should have primary responsibility, but without meaningful faculty consultation. One faculty member expressed concern that "when academic matters are discussed and voted [on] in the CASSC, student entertainment coordinators have as much input as professors." By contrast, under Policy I-80, such matters were actively discussed in both the individual campus senates and the senate consortium as well as in the campus and college-wide academic affairs committees—all of them bodies on which the faculty voice was rightly predominant.

The report of the Faculty Commission that led to the establishment of the CASSC system recommended that "because it represents a departure from tradition, a review mechanism is necessary to assess the effectiveness of this model. Between the first and second 'cycles' of the CASSCs, the Faculty Commission should reconvene to make that assessment and report its findings and recommendations to the College Provost." The CASSC system is already in its second year of operation. So far as the investigating committee is aware, no review of its operation has been undertaken. (Despite the absence of such a review, President Padrón, in his memorandum to the faculty of February 10, 2000, simply asserted that CASSC is "the College's official forum for matters related to academic and student support services.") In addition, although the original CASSC proposal called for annual elections, and although the members of the first set of councils were ap-

pointed or elected to staggered terms, some of which have already expired, the 1999 elections to the various councils were postponed. According to a member of the college-wide CASSC, "the administration decided to let the first group continue another year because it has taken so long to actually get anything done, therefore there has not been another election of members to this body." (President Padrón's February 10 memorandum announced that "new members [are] scheduled to be selected later this spring," and the process was under way in early April.) While there may be good reason for extending the terms of CASSC members, the investigating committee finds it disturbing that the administration could have so easily set aside a key provision in the newly created governance structure. It raises a serious question about how much control the administration exerts over the governance system.

Based on the information provided during its campus interviews and documents it received before and after its visit to the college, the investigating committee believes that the faculty's criticisms of the CASSC system have merit. The investigating committee finds that under the post-I-80 system of governance, the faculty's role in academic decision making at the college has been significantly diluted. It further finds that the CASSC system, as it has been operating thus far, does not provide adequate forums for the faculty to exercise its primary responsibility for academic and curricular matters—responsibility that it should be able to exercise under the Association's Statement on Government and that it had the opportunity to exercise prior to March 1998.

Other significant changes were made in the college's system of governance in the spring and summer of 1998. By memorandum of May 12, 1998, addressed to "All College Personnel," President Padrón announced the establishment of a new "enhanced academic management structure" for the college, with the aim of "increasing efficiency and effectiveness, achieving consistency across the College, and promoting collaborative work efforts." He emphasized the college's need to "have a dedicated leadership team operating within a supportive management structure to successfully complete our own reforms and to adequately respond to the changes in our external environment." One change instituted by the president involved the creation of "college clusters" for the occupational/technical and preprofessional programs, which were placed under new "cluster directors" (a total of nine) at the level of associate deans. More far-reaching was the change whereby department chairs, heretofore full-time teaching faculty who were given release time and a modest salary supplement for administrative duties, were redefined as full-time "managers," with no teaching responsibilities in their normal workload. (The department chairs had earlier been declared ineligible to vote in the faculty representation election, having been considered management for the purposes of collective bargaining.) Their appointments, which previously involved faculty-based screening committees, were now to be made by the administration without a faculty review

process. The duties of these new chairs were defined in the president's memorandum:

Chairpersons are on the front line and it is essential that the traditional chair role be enhanced. Department Chairpersons will have direct responsibilities for hiring, supervising, and evaluating department personnel, implementing instructional programs, providing administrative support and advice in the collective bargaining process, and ensuring adherence to relevant areas of any collective bargaining agreement. . . . With increased levels of authority, responsibility, and accountability, Department Chairs will assume their clear and proper place as academic administrative leaders.

In July 1998, as part of the restructuring process, the number of department chairs was reduced through a reorganization and merger of several departments on the various campuses. Sitting chairs were invited to reapply for the newly redefined positions. Nine did not apply; of those who did, eleven were denied reappointment; a dozen more were reassigned to different campuses.

The Statement on Government includes the following provisions regarding department chairs:

The chair or head of a department, who serves as the chief representative of the department within an institution, should be selected either by departmental election or by appointment following consultation with members of the department and of related departments; appointments should normally be in conformity with department members' judgment. The chair or department head should not have tenure in office; tenure as a faculty member is a matter of separate right. The chair or head should serve for a stated term but without prejudice to reelection or to reappointment by procedures which involve appropriate faculty consultation.

The Association's derivative statement on Faculty Participation in the Selection, Evaluation, and Retention of Administrators further provides that

sound practice dictates that the president should neither retain an administrator found wanting by faculty standards nor arbitrarily dismiss an administrator who meets the accountability standards of the academic community. In no case should a judgment on retention or nonretention be made without consultation with all constituencies, with the faculty involved to a degree at least co-extensive with its role in the original selection process.

Faculty union leaders at Miami-Dade have complained about the administration's actions with regard to the college's department chairs. In comments to the press, they charged that the reorganization was an attempt by the administration to purge departmental chairs sympathetic to the union. Candidates who were interviewed reported having been questioned about their likely loyalty. Provost Lukenbill was quoted in Community College Week as having stated that "[w]hen [the union] was certified as the exclusive bargaining agent for all faculty, the college faced an untenable position in which some faculty were represented by the union and others were not. . . . Consequently, the college eliminated the position of faculty chairperson and established a new administrative position . . . so that there could be no confusion of roles." "The chairpersons," he added, "are obligated to represent the college's position when we do take a position. . . . So loyalty surely was a part of the questioning, but not in the sense that people would not be able to express their views."

Although the investigating committee recognizes that the MDCC administration has the authority to redefine department chairs as "managers" and to treat them as members of the administration rather than as faculty members with added administrative responsibilities, the committee believes that the unilateral restructuring of the traditional department chair position constitutes another departure from the provisions of the Statement on Government of Colleges and Universities. As noted above, this document emphasizes the need for "adequate communication . . . and full opportunity for appropriate joint planning and effort" among the governing board, administration, faculty, students, and others. It stresses that unilateral action in the determination of general educational goals "can lead to confusion or conflict," and that major policy changes should "involve participation of governing board, administration, and faculty prior to final decision." As for the internal operations of an institution of higher education, the document emphasizes the need for the broadest possible exchange of information in a timely manner and the value of affording each component a voice in the determination of institutional operations. The investigating committee finds that the Miami-Dade administration failed to respect these principles of academic government in the way in which it went about redefining the position of department chair and filling those rede-

fined positions.4

^{4.} Provost Lukenbill, in his prepublication comments on this report, stated as follows: "We believe the primary issues discussed in the report have been rendered moot. The faculty overwhelmingly (83 percent) ratified the Collective Bargaining Agreement reached by the parties. Likewise, the Board of Trustees ratified the Agreement (unanimously). . . . Eighty-three percent of the faculty and 100 percent of the Board believe the grievance/academic freedom issues at the College have been amicably resolved, and indeed the administration's position, castigated in the draft report, has been embraced by the parties. The AAUP report reached conclusions that are totally inconsistent with subsequent events and the ratification of the Collective Bargaining Agreement. It should be apparent that the faculty who were interviewed by the investigating committee did not and do not reflect the views of the substantial majority of Miami-Dade Community College faculty."

IV. Conclusion

When Eduardo Padrón came into office as Miami-Dade Community College's district president in 1995, he immediately embarked on a program of what he called "organizational reengineering." According to a 1999 article he coauthored with two other district administrators, one of them Provost Lukenbill, Dr. Padrón brought to the Miami-Dade presidency a new "unified vision" for the institution. That vision, they explain, required "the most comprehensive overhaul in the college's history," a "critical reworking of the college's culture and tradition" as a "confederation of independent, often competitive campuses." The authors demonstrate that the Padrón administration placed an emphasis on greater coordination and integration of functions and increased standardization and uniformity of procedures across the campuses. They assert that "[u]niformity in procedure, however, did not imply centralization of authority, but simply better coordination and cooperation." They further assert that the administration's efforts have "result[ed] in a reinvigorated unified system, now greater than its parts."

The investigating committee, based on the abundance of evidence it has seen, questions how "invigorated" or "unified" Miami-Dade Community College is today, at least insofar as faculty-administration relations are concerned. Whatever the achievements of the Padrón administration, they have been accomplished in large part through a substantial erosion of the faculty's role in the governance of the college. In the course of Dr. Padrón's first three years as president, Miami-Dade Community College moved from an institution with a mature, participatory system of academic government, developed within the framework of Policy I-80, to one that is heavily dominated by the administration. Many members of the faculty, faced with the dramatic changes in the decision- and policy-making processes at the college instituted under President Padrón, chose to unionize, in significant part out of a belief that a faculty union would enable them to regain the role in governance assured to the faculty under I-80. As stated earlier, however, the administration had forewarned the faculty that this would not occur, and thus far it has not occurred.

Miami-Dade Community College has been in a state of crisis in administration-faculty relations as a result of actions taken by the current administration that are inimical to Association-supported standards of shared academic governance as set forth in the Statement on Government of Colleges and Universities. The violations of principles of shared governance by the administration include the

suspension of the college's principal governance document, Policy I-80, in its entirety, along with other existing mechanisms of faculty governance; the formation and implementation of campuslevel and college-wide governance structures, which may well have diminished actual faculty participation; and the redefinition of the position of department chair and the selection of academic administrative staff without appropriate faculty consultation.

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University of Wisconsin-Madison

Investigating Committee

Committee T on College and University Government has by vote authorized publication of this report in *Academe: Bulletin of the AAUP*.

JANE DINEEN PANEK (Education), Molloy College, chair

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