

Exploring Pathways for the Realization of Educational Trade Unions' Responsibilities under the Context of Personnel System Reform

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Abstract: Protecting the legitimate rights and interests of faculty and staff is a fundamental responsibility of the university trade union. Reforms in higher education personnel systems have diversified the legal relationships between universities and faculty members, gradually shifting from an administrative model toward market-oriented and contractual arrangements. This transformation significantly affects the legal status and rights protection of faculty members and poses new demands on the performance of duties by education trade unions. However, the entrenched mindset and working of education trade unions—prioritizing education over rights protection—have led to problems such as ambiguous delineation of responsibilities, excessive formalism, and weak capacity for rights advocacy. The paper analyzes the role-related dilemmas faced by China's education trade unions in institutional reform from several dimensions. It conducts a step-by-step examination by referencing specific legal provisions, and drawing on the experiences of education trade unions abroad, proposes concrete measures to optimize their functions—such as embracing new guiding principles, enhancing collective bargaining, and improving grievance redress mechanisms.

Keywords: New Concepts; Collective Bargaining; Legal Aid; Institutional Optimization.

1. Introduction

The reform of personnel and labor systems in public institutions has shifted the employment model from state-based staffing to institution-based staffing. Employing units now possess autonomy in hiring, partial discretion over salary and allowance distribution, the authority to establish positions, formulate internal rules and regulations, and terminate employment contracts. Consequently, the relationship between schools and their staff has transformed from an administratively controlled, politically aligned, and unitary interest relationship into a labor relationship characterized by economically grounded interests and market-driven coordination.

Personnel system reform has placed new political demands on trade union organizations. In the new era, the fundamental responsibilities of trade unions have evolved from solely “safeguarding employees’ legitimate rights and interests” to “safeguarding employees’ legitimate rights and interests and wholeheartedly serving the employee community,” thereby enriching their substantive meaning. [1]

2. The Legal Relationship Between Chinese Universities and Faculty Members in the Context of Personnel System Reform

Currently, there is no specific legislation in China governing the legal relationship between Chinese Universities and Faculty Members. Its nature remains the subject of diverse interpretations in both theory and practice, exhibiting characteristics of complexity and dynamic evolution. *Higher Education Law of the People's Republic of China*(2018), *The Labor Contract Law of the People's Republic of China*(2012), and *Regulations on Personnel Management of Public Institutions*(2014) all touch upon the

status, rights, and obligations of Faculty members; however, they do not clearly define the nature of the legal relationship between Chinese Universities and Faculty Members, leading to inconsistencies in judicial and administrative practice. *Higher Education Law of the People's Republic of China* stipulates that the appointment of Faculty Members of Chinese Universities shall follow the principle of equality and voluntariness between both parties and be formalized through an appointment contract. *The Labor Law of the People's Republic of China* (1995) and *The Labor Contract Law of the People's Republic of China* (2012)[2] do not clearly define the legal relationship between Chinese Universities and Faculty Members, and academic debate on this issue has never ceased—primarily centering on the interpretation of Article 96 of *the Labor Contract Law of the People's Republic of China*(2012).[3-6] According to the principle of legal application that “special laws prevail over general laws,” *the Labor Contract Law of the People's Republic of China* (2012) applies to the legal relationship between Chinese Universities and Faculty Members only in the absence of specific provisions. This provision is consistent with the 2014 personnel system reform regulations.

According to Article 2 of *the Regulations on Personnel Management of Public Institutions* (2014), personnel management in public institutions adheres to the principles of “the Party exercising oversight over officials and talent,” and fully and accurately implements the guidelines of democracy, openness, competition, and merit-based selection. The state implements a tiered and categorized management system for staff members of public institutions. Article 12 stipulates that Chinese Universities shall enter into employment contracts with Faculty Members.

In practice, however, university faculty members are typically divided into two categories: those with institutional staffing status (i.e., those included in the public institution's official personnel quota—“in-compiled”staff) and those

without such status (e.g., appointment-based, contract-based, postdoctoral researchers, project-based positions, etc.). In-compiled faculty members have traditionally been regarded as being in a personnel relationship with their universities, governed by regulations such as the Regulations on Personnel Management of Public Institutions, and are often classified under administrative legal relationships or a special category of public law relationships. In contrast, non-in-compiled faculty members generally enter into employment contracts and are subject to *the Labor Contract Law of the People's Republic of China* (2012), placing them within the framework of labor legal relationships.

In summary, the law has affirmed that the employment-based system between universities and faculty members establishes a new type of egalitarian labor relationship. However, the legal relationship between Chinese universities and their faculty urgently requires legislative clarification—specifically regarding the legal status of different categories of teachers, their avenues for rights protection, and mechanisms for dispute resolution—to meet the demands of higher education governance and faculty rights protection in the new era. This places new demands on the role of trade unions. Educational trade unions must not only act as mediators in disputes between universities and teachers but also gain a precise understanding of the substance and scope of their functions to meet the requirements of this evolving landscape and usher in a new phase of union work in education.

3. The Responsibilities and Institutional Challenges of Educational Trade Unions in Chinese Universities

3.1. The Rights-Protection Responsibilities of Education Trade Unions

Article 6 of *the Trade Union Law of the People's Republic of China* (2021) stipulates: “Protecting the legitimate rights and interests of workers and wholeheartedly serving the employee community constitute the fundamental responsibilities of trade unions. While safeguarding the overall interests of the entire population, trade unions also represent and protect the legitimate rights and interests of workers.” Article 7 of *the Labor Law of the People's Republic of China* (1995) stipulates: “Workers have the right to join and organize trade unions in accordance with the law. Trade unions represent and safeguard the legitimate rights and interests of workers and carry out their activities independently and autonomously as stipulated by law. Trade unions serve as the representative body of workers’ interests. In the relationship between workers and employers, trade unions have no interests of their own; their core function is to protect the rights and interests of workers.”

The realization of the Education Trade Union’s rights-protection responsibilities includes the following approaches: (1) providing guidance in the recognition of faculty and staff rights; (2) articulating and conveying the interests and demands of faculty and staff; (3) actively safeguarding those interests in their actual realization; (4) acting as a check on the dominant position of employing institutions; and (5) assisting in the oversight of administrative law enforcement. Among these, securing faculty’s right to determine labor compensation and their right to engage in collective

bargaining and contract negotiation constitutes a core responsibility of education trade unions. *The State Council's Plan for Institutional Reform and Functional Transformation* (2013) centers on disentangling social organizations from administrative agencies, thereby creating an opportunity to de-administratize education trade unions and reestablish their representative role.

3.2. The Participation Responsibilities of Education Trade Unions

The Decision of the Central Committee of the Communist Party of China on Reforming the Education System states: “We must establish and improve the faculty and staff congress system with teachers as the main body, and strengthen democratic management and democratic oversight.” Articles 38 and 39 of *the Trade Union Law of the People's Republic of China* (2021) stipulate that the trade union committees of enterprises and public institutions shall, in accordance with the law, organize employees to participate in the democratic management of their enterprises or institutions through forms suited to the specific circumstances of those entities. Article 8 of *the Labor Law of the People's Republic of China* (1995) stipulates that workers, in accordance with the law, participate in democratic management through staff assemblies, staff congresses, or other forms, or engage in equal negotiations with their employers regarding the protection of their lawful rights and interests.

The “participation responsibility” entails the union’s involvement throughout the entire process: (1) Pre-emptive engagement: Participating in discussions prior to the adoption of policies or institutional rules to prevent systemic inequities; (2) Ongoing oversight: Exercising democratic supervision over the implementation of rules—such as algorithm-based performance evaluations or dismissal procedures; (3) Joint deliberation and decision-making: Engaging in equal dialogue with management through mechanisms such as faculty/staff congresses and collective bargaining; (4) Representation of diverse voices: Paying particular attention to the rights and interests of vulnerable groups, including early-career faculty, non-tenure-track or non-in-compiled staff, and female employees.

3.3. The Educational Responsibilities of Education Trade Unions

Article 3 of *the Teachers Law of the People's Republic of China* (2022) stipulates: “Teachers are professionals who perform the duties of teaching and education, bearing the mission of imparting knowledge, nurturing students, cultivating builders and successors for the socialist cause, and enhancing the nation’s overall quality.” Accordingly, the educational responsibilities of trade unions encompass fostering teachers’ professional ethics, humanistic literacy, and the development of a multidisciplinary knowledge base. Education trade unions should unhesitatingly align themselves with the core missions of their institutions and actively support teachers’ professional development. Educational competence and educational interests constitute the core interests of university faculty and staff. The educational function of trade unions offers the most effective pathway for realizing these interests and serves as a vital means to advance campus spiritual and cultural development and elevate the overall quality of the teaching workforce.

3.4. The Organizational Development Responsibilities of Education Trade Unions

The “constructive responsibilities” of education trade unions refer to their proactive role in promoting the development of education, strengthening the faculty and staff workforce, and advancing the modernization of school governance. Although this responsibility is often encompassed within the three core functions of “rights protection,” “participation,” and “education,” it carries distinct practical significance, primarily manifested in the following areas: (1) Promoting professional ethics and conduct among teachers; (2) Enhancing the overall quality and competence of faculty and staff; (3) Participating in campus cultural development; (4) Strengthening the organizational capacity of the trade union itself. The construction responsibilities of education trade unions constitute a key dimension for their effective governance in the new era.

3.5. Challenges and Underlying Causes Facing Education Trade Unions’ Responsibilities Under Personnel System Reform

As the legal status of teachers becomes increasingly diverse, education trade unions encounter the following challenges in fulfilling their responsibilities: (1) Weakened rights-protection function: There is a pronounced tendency to prioritize educational activities over rights protection. Unions often inadequately intervene in disputes concerning faculty rights related to hiring, performance evaluation, dismissal, and compensation, reflecting limited capacity in rights advocacy. (2) Hollowed-out collective bargaining mechanisms: Most universities have not established substantive collective bargaining systems for faculty. Consequently, unions lack both the institutional channels and the capacity to engage university administrations in equal negotiations on core issues such as personnel policies, performance assessment frameworks, and compensation structures. (3) Ambiguous legal standing and unclear boundaries of authority: Under the dual-track system of “personnel disputes” and “labor disputes,” unions face uncertainty regarding whether *the Labor Contract Law of the People’s Republic of China* applies to in-compiled teachers and how they should intervene in personnel disputes. The absence of clear legal guidance hampers unions’ ability to act effectively in rights-protection practice. [7] (4) Inadequate coverage of emerging employment arrangements: Union representation and support mechanisms remain insufficient for non-in-compiled teachers, postdoctoral researchers, part-time faculty, and other non-standard academic workers, leaving their legitimate rights poorly protected. While existing laws provide a foundational basis for union activities, urgent reforms are needed—through clarifying functional mandates, strengthening collective bargaining, improving grievance redress mechanisms, and enhancing professional capacity—to transform education trade unions from a “welfare-oriented” model toward a “rights-protection-, service-, and participation-oriented” model. This transformation is essential for unions to effectively fulfill their role in fostering harmonious labor (personnel) relations.

4. Lessons from the Responsibilities of Education Trade Unions Abroad

There are significant differences between domestic and foreign university trade unions in terms of legal status, core responsibilities, operational mechanisms, and practical roles. The functional characteristics of foreign education trade unions and the insights they offer can be summarized as follows:

(1) Collective bargaining serves as the core function of education trade unions abroad. In countries such as the United States, the United Kingdom, Canada, and Australia, university unions—such as the American Association of University Professors (AAUP) and the University and College Union (UCU) in the UK—primarily represent faculty in institutionalized collective bargaining with university administrations on key issues including compensation, working conditions, hiring and dismissal procedures, and the protection of academic freedom, resulting in legally binding collective agreements. Sweden is renowned globally for its tripartite cooperation among the state, trade unions, and employer federations. Its collective bargaining and collective agreement system—built on mutual understanding and a spirit of collaboration—has contributed to a stable and well-ordered labor market. [8] For China, the key implication is to explore—within the frameworks of *the Trade Union Law of the People’s Republic of China* (2021) and *the Teachers Law of the People’s Republic of China* (2022)—explicitly recognizing university trade unions as legitimate bargaining parties in the context of personnel system reform. This would involve establishing a substantive collective bargaining system that enables education trade unions to engage in institutionalized negotiations with university administrations on core issues such as position design, performance evaluation, compensation structures, and exit mechanisms, thereby ensuring that faculty and staff congresses (e.g., “JiaoDaiHui”) do not become mere formalities.

(2) Highly organized and legally empowered. Trade unions are legally granted independent legal person status, with autonomy over their finances, personnel, and decision-making. The law explicitly confers upon them rights such as representation, collective bargaining, and—in some countries—the right to strike, thereby ensuring their equal standing in labor-employer relations. Union responsibilities extend not only to tenured faculty but also to tenure-track faculty, contract-based lecturers, postdoctoral researchers, part-time instructors, and other academic staff, achieving comprehensive, full-spectrum rights protection and preventing coverage gaps caused by fragmented employment statuses. For example, the University and College Union (UCU) in the UK represents not only permanent lecturers but also actively organizes hourly-paid staff and graduate teaching assistants. The implication for China is to improve supporting legal frameworks and clarify the boundaries of application. Specifically, relevant legislation or judicial interpretations should explicitly address: whether *the Labor Contract Law of the People’s Republic of China* (2012) applies to both in-compiled and non-in-compiled teachers; the scope of union authority to intervene in personnel disputes; the legal enforceability of collective agreements. Such clarifications would provide trade unions with a clear legal basis for fulfilling their responsibilities.

(3) Professionalized Rights Protection and Dispute Resolution Mechanisms. Trade unions employ professional

legal advisors and trained negotiators and establish multi-tiered dispute resolution mechanisms—including grievance filing, mediation, and arbitration—to ensure that faculty members can obtain timely and effective remedies when their rights are infringed. University unions abroad typically represent a broad spectrum of staff, including professors, lecturers, postdoctoral researchers, graduate teaching assistants, administrative personnel, and even temporary workers, emphasizing unified representation that encompasses both full-time and part-time, as well as in-compiled and non-in-compiled employees. [9] The implication for China is to clearly define trade unions' role as genuine “representatives” of faculty and staff and to advance their de-administratization. Chinese university trade unions should break through the barriers imposed by the traditional “institutional staffing” system and proactively include emerging groups such as early-career faculty, postdoctoral researchers, and project-based contract staff, thereby enhancing their representativeness and cohesion.

5. Recommendations and Measures for Improving the Responsibilities of Education Trade Unions in China

5.1. Establishing a New Concept of the Responsibilities of Education Trade Unions

The effective fulfillment of education trade union functions depends on a sound legal framework and requires further clarification and reinforcement through legal provisions.

First, the role and positioning of education trade unions must be clearly defined. Education trade unions are organizations that both uphold the leadership of the Party and support the administrative authority of institutions, while also reasonably exercising their supervisory functions and independently carrying out rights-protection and other duties. The capacity to operate independently is inherent to the nature and institutional status of education trade unions. Their mass-based character and relative autonomy require that they act in accordance with the will of faculty and staff, and implement the Party's principles, guidelines, and policies through their own distinct approaches.

Second, the rights and obligations of education trade unions must be clearly defined. The government should promptly revise relevant regulations in light of current developments. Building on a clear delineation of the relationship between the authority of education trade unions and other administrative powers, it should enact charters or ordinances tailored to the unique characteristics of these unions. Such instruments should explicitly affirm the independent institutional status of education trade unions in the new era and specify their responsibilities, rights, and obligations—including their legal rights to conduct oversight, engage in consultation and negotiation, handle labor disputes, participate in democratic management, and exercise democratic involvement. Only by elaborating these legal provisions in detail—and emphasizing their binding force and practical applicability—can a solid legal foundation and enforceable authority be established to support the unions' core functions, such as rights protection and democratic supervision, thereby reinforcing the legitimacy and effectiveness of education trade unions in fulfilling their mandates.

5.2. Refine the Legal Framework for the Union's Rights-Protection Functions

5.2.1. Refining the Detailed Rules for Rights Protection by Education Trade Unions

Protecting the legitimate rights and interests of staff is the fundamental responsibility of trade unions and the very source of vitality for education trade unions. To ensure effective and unimpeded channels for the realization of teachers' rights and to strengthen the implementation of *the Trade Union Law of the People's Republic of China* (2021), it is necessary to formulate and issue Detailed Rules for the Implementation of the Trade Union Law by Education Trade Unions. These rules should explicitly grant education trade unions the rights to engage in collective bargaining, participate in democratic management, exercise legal oversight, take part in democratic decision-making, and handle labor disputes. Furthermore, the rules should require education trade unions at all levels to establish labor law supervision bodies and appoint designated labor law supervisors to monitor how schools implement labor-related laws and regulations. In the course of such supervision, education trade unions shall be empowered with specific rights, including: the right to investigate; the right to offer opinions and recommendations; the right to request reconsideration of decisions; the right to negotiate with employers; the right to petition education authorities to order corrective actions; the right to refer matters to the people's government for resolution; and the right to issue urgent recommendations for risk mitigation. Only by elaborating the provisions of *the Trade Union Law of the People's Republic of China* (2021) in a manner that emphasizes operability, enforceability, and practicality can a solid legal foundation be established to empower trade unions in fulfilling their rights-protection mandate.

5.2.2. Enhance the Rights-Protection Capacity of Education Trade Unions

Enhancing the rights-protection capacity of education trade unions can be approached from two directions. First, improving the professional competencies of union staff. Union personnel should deepen their understanding of issues related to teachers' recruitment, employment, and separation. A dual-track training model—combining “foundational competencies” with “specialized skills”—should be established. Foundational courses should cover topics such as trade union laws and regulations, communication skills, and basic labor rights knowledge, while specialized modules should include practical training in dispute mediation, negotiation facilitation, and collective consultation. Targeted practical training in collective bargaining, communication techniques, and conflict resolution should be provided to strengthen staff capabilities in real-world scenarios—such as salary negotiations, personnel disputes, and institutional policy-making. Through systematic, professional, and practice-oriented capacity building, union staff can transition from a “clerical/administrative” role to a “rights-protection-oriented and professional” role, truly becoming trusted advocates for faculty and staff rights. Second, it is essential to improve the standardized procedures for union-based rights protection. Education trade unions should formulate Detailed Rules for Safeguarding Teachers' Rights and Interests and actively explore the negotiation and adoption of Special Agreements on the Protection of Education Sector Workers' Rights, functioning similarly to how consumer associations

protect consumer rights. Moreover, education trade unions should develop fair, reasonable, and standardized model employment contract templates—covering form, content, and procedure—that clearly define the powers, rights, obligations, and responsibilities of both schools and teachers. These model contracts would serve as authoritative references to guide the signing of employment agreements between institutions and faculty, preventing inconsistent, school-specific rules (“one school, one rule”) and curbing excessive institutional authority. This approach would effectively eliminate arbitrary decision-making and rights violations under the appointment-based employment system.

5.3. Establishing a Collective Bargaining Mechanism for Education Trade Unions

The collective bargaining mechanism of university trade unions refers to an institutional arrangement whereby the union, representing faculty and staff, engages in equal dialogue and negotiation with university administration on major issues concerning labor rights, compensation and benefits, working conditions, personnel systems, and performance evaluation, with the aim of reaching mutual agreement. As a core mechanism for balancing the interests of both sides in labor relations, collective bargaining urgently needs to be accelerated and deepened across multiple levels and dimensions. [10] Education trade unions should focus on expanding channels for democratic staff participation and continuously explore new mechanisms for interest-based negotiation while enriching the substance of such consultations. In particular, they should pilot and implement a collective contract system, aiming to achieve mutually beneficial outcomes—maximizing “win-win” results—and enhancing compliance with agreed terms. The effective implementation of the collective contract system requires establishing a mechanism that ensures unions can participate in decision-making at the earliest stage, guarantees the scope and depth of union involvement, and formally assigns key decisions to the faculty and staff congress (JiaoDaiHui) for deliberation. This mechanism must be institutionalized and operate through standardized procedures.

Collective agreements should enhance and clarify the content of individual faculty employment contracts. Building upon the seven foundational clauses—duration of the employment contract, assigned position and job responsibilities, job-related conduct, working conditions, compensation and benefits, conditions for amendment and termination of the contract, and liabilities for breach of contract—collective agreements should further incorporate more detailed provisions, such as working hours, welfare benefits, and dispute resolution mechanisms. The conclusion of collective agreements depends on the effective implementation of a collective bargaining mechanism. This mechanism must operate within an appropriate legal framework—for example, clear legal provisions are needed to define: the triggers for initiating collective bargaining, the qualifications of negotiating parties, permissible actions during bargaining disputes, and the corresponding legal liabilities. Without such legal definitions and safeguards, collective bargaining risks either escalating into extreme labor-management conflicts or degenerating into a mere formality devoid of substantive impact. The advancement of digital technologies has significantly impacted collective bargaining mechanisms and the content of collective agreements. [11] Education trade unions should adapt to these

emerging trends and enhance the collective bargaining system to better safeguard the rights and interests of university faculty.

5.4. Establishing an Integrated Dispute Resolution Mechanism Combining Consultation, Mediation, Arbitration and Litigation

5.4.1. Establish an Information Communication Mechanism

Education trade unions should establish a staff information and ideological feedback mechanism, along with a multi-level, multi-channel information dissemination network, to promptly grasp the dynamics of faculty and staff, identify potential sources of instability, understand their opinions and suggestions, and proactively analyze and address emerging issues in line with the union’s core responsibilities. Under current technological conditions, a fully integrated, comprehensive digital network represents the most effective and efficient approach to communicating with faculty and staff. It is therefore imperative to actively advance the “Internet + Trade Union” initiative and pilot online proposal systems—a clear trend demanded by the times. [12] By adopting specialized trade union management software and leveraging an electronic faculty congress proposal system, the entire process—from proposal submission to acceptance—can be conducted online.

5.4.2. Routine Operation of Dispute Mediation Mechanisms

Mediation is a process in which a neutral third party facilitates communication, provides guidance, and offers persuasion and education to help disputing parties voluntarily reach a mutually acceptable agreement in accordance with the law, thereby resolving their conflict. The internal personnel mediation system within public institutions is, by nature, a form of civil (non-governmental) mediation. Although China’s personnel dispute arbitration system mandates mediation as a compulsory step prior to arbitration, it does not require mediation within the employing institution or its supervisory administrative department as a prerequisite. In practice, however, internal mediation—at either the institutional or supervisory authority level—can play a highly effective role. If fully leveraged, such mechanisms can prevent personnel disputes at their source and resolve social conflicts at an earlier stage.

5.4.3. Improve the Grievance and Arbitration Systems

Currently, both the appeal mechanism and the personnel dispute arbitration system in China’s education sector have notable shortcomings. The appeal process primarily relies on internal administrative procedures and lacks clear, standardized rules governing the appeal process itself. Meanwhile, the personnel dispute arbitration system, modeled after labor dispute arbitration, fails to reflect the unique characteristics of higher education activities and remains procedurally underdeveloped. To address these gaps, a Teacher Grievance Review Committee should be established. When a teacher believes that an action taken by the school or the relevant education administrative authority concerning them is unlawful, improper, or infringes upon their legitimate rights, they should have access to multiple remedial avenues: they may file for arbitration with the relevant arbitration body, lodge a grievance with the Teacher Grievance Review Committee, or initiate legal proceedings in

court.

5.4.4. Strengthening Legal Aid Services Provided by Education Trade Unions

The revised *Trade Union Law of the People's Republic of China*(2021) explicitly states that trade union federations at or above the county level may provide legal aid and other legal services to their affiliated unions and workers. Legal aid is a crucial means for trade unions to protect workers' rights. By offering legal assistance—such as legal counseling and practical support in rights-protection cases—the union extends the reach of its protective functions to faculty and staff.

From a practical needs perspective, education trade unions should support the establishment of branch offices of legal aid centers within educational institutions or, alternatively, develop online communication channels to create a dedicated legal service platform for staff. This would ensure that faculty and staff have access to timely and necessary legal support. [13] Moreover, university trade unions should also actively safeguard the legitimate rights and interests of non-in-compiled staff. In accordance with *the Trade Union Law of the People's Republic of China* (2021) and *the Charter of the All-China Federation of Trade Unions*(2023), unions must effectively facilitate the membership enrollment of non-in-compiled personnel, cultivate their awareness of seeking rights protection through union channels, and guide them to express their concerns and resolve disputes through formal and legitimate avenues. [14]

6. Conclusion

The reform of personnel systems in higher education has led to more complex labor relations and posed new challenges to the protection of teachers' rights and interests. The functional transformation of education trade unions not only reflects the broader trend of evolving union responsibilities under personnel reform but also highlights the unions' proactive and assertive role in the new context. It is essential to firmly grasp the direction and guiding principles of this transformation and, with a spirit of persistent exploration and unwavering commitment, forge a virtuous path toward the sustainable and healthy development of education trade unions.

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