

**SCHOOL BOARD OF BREVARD COUNTY, FLORIDA**

**BOARD AGENDA ITEM – May 11, 2021**

**DEPARTMENT/SCHOOL INITIATED AGREEMENT**

**21-442-A-WH CEV Multimedia**

<input type="checkbox"/> (BW) Bids Waived	<input checked="" type="checkbox"/> (A) Agreement
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**REQUESTOR:** Career and Technical Education

**Legal Review Required:**  Yes  No

**Standard Template Used with No Changes:**  Yes  No

**Standard Template Type:** Software Addendum Template

VENDOR NAME	AMOUNT AWARDED	REQUIRED PRODUCTS/SERVICES
CEV Multimedia, Ltd.	\$111,100.00	Middle School FACS program curriculum Four-year licenses
<b>Total</b>	\$111,100.00	

<input type="checkbox"/> <b>Contract Renewal</b>	<b>New Contract Amount</b>	\$111,100.00
<input type="checkbox"/> <b>Recurring Contract</b>	<b>Previous Contract Amount</b>	N/A
<input checked="" type="checkbox"/> <b>New Contract</b>	<b>Variance</b>	N/A

**PRICE INCREASE / DECREASE EXPLANATION:** N/A

**DISCUSSION:**

This recommendation from Career and Technical Education is for a 4-year renewal of instructional materials for all middle school *Fundamentals of Culinary Careers* courses in the district. The materials listed on the attachment align with Florida CTE Standards and Benchmarks and provide lessons through a digital platform. CEV Multimedia, Ltd. is the sole producer and publisher of icevonline.com which includes instructor and student annual licenses for Family and Consumer Science.

The standard software license addendum template has been used, which does not require legal review.

**CONTRACT TERM:**

The initial contract term shall commence August 1, 2021 and continue until July 31, 2025.

**RECOMMENDATION:**

It is the recommendation of Dr. Stephanie Soliven, Assistant Superintendent of Secondary Leading & Learning, and Rachel Rutledge, Director of Career & Technical Education to approve the attached agreement with CEV Multimedia, Ltd. in the amount of \$111,100.00.

**AUTHORITY FOR ACTION:**

Florida Administrative Code 6A-1.012 (11) (b)



1020 SE Loop 289  
Lubbock, TX 79404

Phone 800/922-9965 \* 806/745-8820

Fax 800/243-6398 \* 806/745-5300

e-mail customersupport@cevmultimedia.com

Quote	QTE035960
Date	3/8/2021
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**Bill To:**

Brevard Public Schools  
accounts.payable@brevardschools.org  
Viera FL 32940-6601

**Ship To:**

Brevard Public Schools  
Karla Terrio terrio.karla@brevardschools.org  
2700 Judge Fran Jamieson Way  
Viera FL 32940

Purchase Order No.	Customer ID	Salesperson ID	Territory ID	Shipping Method	Payment Terms	Req Ship Date
PENDING	BREV0001	FL01	ICEV-CTE		Net 30 days	0/0/0000

Quantity	Item Number	ISBN Number	Description	Unit Price	Ext. Price
14	FCS HS Instr	240-200	5%Disc-iCEV FCS HighSchoolInstructorLicense-4 Year-Renewa	\$2,100.00	\$29,400.00
2,150	FCS HS Student	240-201	5% Disc-iCEV FCS HighSchoolStudentLicense-4 Year-Renewal	\$40.00	\$81,700.00
<p>By purchasing the 4 year subscription you can save \$4,300!! Must be purchased directly through CEV Multimedia to receive discounted pricing.</p>					

We Appreciate Your Business

<b>Subtotal</b>	\$111,100.00
<b>Misc</b>	\$0.00
<b>Tax</b>	\$0.00
<b>Shipping/Handling</b>	\$0.00
<b>YOUR DISCOUNT</b>	\$0.00
<b>Total</b>	\$111,100.00

QTE035960



## SOFTWARE LICENSE ADDENDUM

**THIS SOFTWARE LICENSE ADDENDUM** (“Software Addendum”) is entered into by and between The School Board of Brevard County, Florida, a political subdivision of the State of Florida, located at 2700 Judge Fran Jamieson Way, Viera, Florida 32940, more commonly known as Brevard Public Schools (hereinafter referred to as “BPS”) and CEV Multimedia, Ltd. whose business address is 1020 SE Loop 289 Lubbock, Texas 79404, (hereinafter referred to as “Contractor”), and is intended to supplement the agreement entered into between the parties effective upon issuance of Purchase Order under Agreement #21-442-A-WH regarding software and/or Services to be provided by Contractor to BPS.

1. **TERM** – The term of this Software Addendum will coincide with the term of the agreement between the parties and may be renewed at the end of the term on the same or substantial similar terms by mutual written agreement of the parties.
2. **DEFINITION OF “AGREEMENT” AND CONFLICT** - As used herein, the term “agreement” shall mean Contractor’s standard form contracts and/or terms and conditions, any and all exhibits and attachments thereto, and any additional terms and conditions incorporated or referenced therein. Contractor’s standard terms and conditions in the agreement, and any additional terms and conditions incorporated or referenced therein, are, with the exceptions noted herein, acceptable to BPS. Nonetheless, because certain standard clauses that may appear in, or be incorporated by reference into, Contractor’s agreement cannot be accepted by BPS, and in consideration of the convenience of using those standard agreements without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Contractor’s agreement, the following provisions as set forth in this Software Addendum shall control in the event of a conflict and they are specific to The School Board of Brevard County, Florida as a local educational agency.
3. **DISPUTES** - Any references in the agreement to arbitration are hereby deleted. Jurisdiction resides in the Circuit Court in Brevard County, Florida, the local educational agency’s county. Agreements to engage in nonbinding mediation are permissible.
4. **HOLD HARMLESS** - Any clause requiring the BPS to indemnify or hold harmless any party is hereby deleted in its entirety. In addition, nothing in the agreement shall be deemed to be a waiver of the BPS’s rights, privileges, and immunities as set forth in Section 768.28, F.S.
5. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of Florida. This provision replaces any references to any other State’s governing law.
6. **TAXES** - Provisions in the agreement requiring BPS to pay taxes are deleted. As a political subdivision of the State of Florida, BPS is generally exempt from Federal, State, and local taxes and will not pay taxes for any Contractor including individuals, nor will BPS file any tax returns or reports on behalf of Contractor or any other party.
7. **PAYMENT** - Annual licensing and maintenance costs are payable at the beginning of each renewal period. Payment for services will be in arrears. Any references to prepayment are deleted. In accordance with the Local Government Prompt Payment Act, found in Section 218.70, F.S., payment by BPS shall be made within forty-five (45) days of receipt of an invoice from Contractor.
8. **INTEREST** – Any provision for interest or charges on late payments is deleted. BPS has no statutory authority to pay interest or late fees.
9. **NO WAIVER** - Any language in the agreement requiring BPS to waive any rights, claims, or defenses is hereby deleted.

10. **FISCAL YEAR FUNDING** - Services performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Florida Legislature or otherwise being available for these Services. In the event funds are not appropriated or otherwise available for these Services, the agreement shall terminate without penalty at the end of BPS's fiscal year on June 30. After that date, the agreement becomes of no effect and is null and void. However, BPS agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.

11. **STATUTE OF LIMITATION** - Any clauses in the agreement limiting the time in which BPS may bring suit against Contractor, lessor, individual, or any other party are deleted.

12. **SIMILAR SERVICES** - Any provisions in the agreement limiting BPS's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.

13. **ATTORNEY FEES** - BPS recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision regarding attorney fees in the agreement is invalid and considered null and void.

14. **ASSIGNMENT** - Notwithstanding any clause to the contrary in the agreement, Contractor shall obtain the written consent of BPS prior to assigning the agreement.

15. **LIMITATION OF LIABILITY** -BPS, as a political subdivision of the State of Florida, cannot agree to assume the potential liability of a Contractor. Accordingly, any provision in the agreement limiting the Contractor's liability for direct damages is hereby deleted. Limitations on special, incidental, or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.

16. **RIGHT TO TERMINATE** -BPS shall have the right to terminate the agreement upon thirty (30) days' written notice to Contractor. BPS agrees to pay Contractor for services received prior to the effective date of termination.

17. **TERMINATION CHARGES** - Any provision requiring BPS to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. BPS may only agree to reimburse Contractor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by BPS prior to the end of any current agreement term.

18. **RENEWAL** - Any reference to automatic renewals are hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.

19. **INSURANCE** - Any provision requiring BPS to purchase insurance for Contractor's property is deleted. BPS is self-insured and will provide a certificate of property insurance upon request. Contractor, if coming onto property owned or operated by BPS, shall maintain the following types of insurance at its sole expense:

a. Workers' Compensation insurance in statutory amounts and Employer's Liability in an amount not less than One Million Dollars (\$1,000,000) each accident/disease. This insurance shall apply to all Contractor's employees who will be engaged in the performance of the Services under the agreement.

b. Commercial General Liability insurance, including products and completed operations and contractual liability, arising from any and all claims for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) aggregate. This policy must include The School Board of Brevard County, Florida, its board members, employees, and representatives as additional insured.

c. Automobile Liability insurance, including all owned, non-owned, and hired vehicles used in conjunction with providing Services outlined in the agreement, for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each accident. This policy must include The School Board of Brevard County, Florida, its board members, employees, and representatives as additional insured.

d. Professional Liability insurance for any and all claims as a result of an action, lack of action, error or omission by Contractor, its employees, or subcontractors in an amount not less than One Million Dollars (\$1,000,000) each claim.

If such policy is written on a “claims-made” basis, coverage shall remain in effect for three (3) years after the expiration or termination of the agreement and any of its extensions.

20. **RIGHT TO NOTICE** - Any provision in the agreement for repossession of equipment without notice is hereby deleted. However, the BPS does recognize a right of repossession with notice.

21. **ACCELERATION** – Any reference in the agreement to acceleration of payments in the event of default or non-funding is hereby deleted.

22. **CONFIDENTIALITY** – Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. BPS contracts are public records under the Florida Public Records Laws and subject to disclosure upon request unless otherwise made confidential or exempt under the F.S..

23. **FERPA** – To the extent Services provided hereunder pertain to the access to student information, Contractor shall adhere to all standards included in the Family Educational Rights and Privacy Act (FERPA) and Sections 1001.41 and 1002.22, F.S. (the Protection of Pupil Privacy Acts), and other applicable laws and regulations as they relate to the release of student information.

24. **INDEMNIFICATION**

a. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless SCHOOL BOARD, and its employees (“Indemnitees”) from and against all claims, liabilities, damages, losses, and costs including, but not limited to, reasonable costs, and attorneys’ fees at the pre-trial, trial, and appellate levels, arising out of, resulting from, or incidental to CONTRACTOR’s performance under this Agreement or to the extent caused by negligence, recklessness, or intentional wrongful conduct of CONTRACTOR or other persons employed or utilized by CONTRACTOR in the performance of this Agreement. The remedy provided to the Indemnitees by this indemnification is in addition to and not in lieu of any other remedy available under this Agreement or otherwise. CONTRACTOR’s available insurance under this Agreement, or otherwise, will not diminish or limit this indemnification obligation in any way. The remedy provided to the Indemnitees by this indemnification survives this Agreement. The provisions of this Section specifically survive the termination of this Agreement. The provisions of this Section are intended to require the CONTRACTOR to furnish the greatest amount of indemnification allowed under Florida law. If any indemnification requirement in this Agreement violates any law, the Parties agree the provision requires the greatest level of indemnification by the CONTRACTOR to the Indemnitees allowable under Florida law. CONTRACTOR acknowledges that indemnification by the SCHOOL BOARD may be unenforceable under Florida law and that the SCHOOL BOARD does not waive any legal defense based on the unenforceability of such indemnification position. This indemnification shall not apply to any claims, suits, actions, damages, losses, expenses, and/or a cause of action, arising from BPS’s sole gross negligence or intentional misconduct. The agreement to indemnify, as outlined in this section, includes an obligation for Contractor to indemnify BPS for liability for any negligence on the part of BPS until/unless both Contractor and BPS agree that BPS was solely negligent. If the question of “solely negligent” should arise, a court agreeable to both Parties may be engaged to settle this dispute.

b. Nothing in this Agreement shall be deemed to affect the rights, privileges, or be deemed a waiver of, or limitation of, BPS’s sovereign immunity protection and limitations of liability pursuant to Section 768.28, F.S. Any indemnity or assumption of liability by BPS hereunder shall be subject to BPS’s rights to sovereign immunity and any other limitations of liability provided BPS pursuant to Florida law.

25. **PUBLIC RECORDS** – **EFFECTIVE JULY 1, 2016 IF THE BIDDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE BIDDER’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 321-633-1000 ext. 11453. [RECORDSREQUEST@BREVARDSCHOOLS.ORG](mailto:RECORDSREQUEST@BREVARDSCHOOLS.ORG). THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA, 2700 JUDGE FRAN JAMIESON WAY, VIERA, FL 32940.**

a. The agreement and this Software Addendum are subject to and governed by the laws of the State of Florida, including without limitation Chapter 119, F.S., which generally makes public all records or other writings made by or received by the Parties. Contractor acknowledges its legal obligation to comply with Section 119.0701, F.S. Contractor shall keep and maintain public records, as that phrase is defined in the Florida Public Records Act, which would be required to be kept and maintained by BPS in order to perform the scope of services. Contractor shall comply with all requirements for retaining public records and shall transfer, at no cost to BPS, all public records in the possession of Contractor upon a request for such public records. See Section 119.0701(2)(b)4, F.S., for additional record keeping requirements.

b. A request to inspect or copy public records relating to BPS's contract for services must be made directly to BPS's Custodian of Public Records. If BPS does not possess the requested records, BPS's Custodian of Public Records shall immediately notify Contractor of the request. Contractor must provide a copy of the records to BPS or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. If Contractor does not timely comply with BPS's request for records, BPS shall be able to sue for breach of contract and the prevailing party shall be entitled to attorney's fees.

c. Should Contractor fail to provide the requested public records to BPS within a reasonable time, Contractor understands and acknowledges that it may be subject to penalties under Sections 119.0701(3)(c) and 119.10, F.S.

d. Contractor shall not disclose public records that are exempt, or confidential and exempt, from public records disclosure unless specifically authorized by law for the duration of the agreement term and following the completion, expiration, or termination of same if Contractor does not transfer the records to BPS. Upon completion, expiration, or termination of the agreement, Contractor shall transfer, at no cost to BPS, all public records in its possession or keep and maintain public records required by BPS to perform the services. If Contractor transfers all public records to BPS, Contractor shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If Contractor keeps and maintains public records upon completion, expiration, or termination of the agreement, Contractor shall meet all applicable requirements for retaining public records and provide requested records to BPS pursuant to the requirements of this section. All public records stored electronically must be provided to BPS in a format that is compatible with the information technology systems of BPS.

26. **AMENDMENTS** - All amendments, modifications, alterations, or changes to the agreement or this Software Addendum shall be in writing and signed by both parties. No future amendment, modification, alteration, or change may be made to the agreement or this Software Addendum without the express written consent of the parties.

27. **INCORPORATION BY REFERENCE** – In addition to Contractor's agreement, a copy of Contractor's standard terms and conditions as they appear on the date of execution of this Software Addendum are attached hereto and incorporated herein as Exhibit "A."

28. **E-Verify**. Under Executive Order 11-116, and Section 448.095, Fla. Stat., effective July 1, 2020, Contractor shall use the U.S. Agency of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all employees hired during the term of this Agreement. Contractor shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees they may hire during the term of this Agreement. Contractor must provide evidence of compliance with 448.095, Fla. Stat by January 1, 2021. Evidence may consist of, but is not limited to, providing notice of Contractor's E-Verify number. Failure to comply with this provision is a material breach of the Agreement, and BPS may choose to terminate the Agreement at its sole discretion. Contractor may be liable for all costs associated with BPS securing the same services, inclusive, but not limited to, higher costs for the same services and rebidding costs (if necessary).

**IN WITNESS WHEREOF**, BPS has made and executed this Software License Addendum and Contractor has made and executed this Software License Addendum on the day and year below written.

**SIGNATURE PAGE TO FOLLOW**

**CEV MULTIMEDIA LTD.**

By: **Bryce Moore** Digitally signed by Bryce Moore  
DN: cn=Bryce Moore, o=CEV Multimedia,  
Ltd., ou,  
email=bryce.moore@cevmultimedia.com,  
c=US  
Date: 2021.04.14 09:24:39 -0500 \_\_\_\_\_ Date: **4/14/2021** \_\_\_\_\_  
Authorized Representative Signature

Print Name: **Bryce Moore** \_\_\_\_\_

Title: **Data & Contracts Analyst** \_\_\_\_\_

**THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Misty Belford, Board Chairperson

**EXHIBIT "A"**  
**CONTRACTOR'S STANDARD TERMS AND CONDITIONS ATTACHED**

## TERMS OF USE

### Agreement between user and [www.icevonline.com](http://www.icevonline.com)

Welcome to [www.icevonline.com](http://www.icevonline.com). The [www.icevonline.com](http://www.icevonline.com) website (the "Site") is comprised of various web pages operated by CEV Multimedia, Ltd. ("CEV Multimedia"). [www.icevonline.com](http://www.icevonline.com) is offered to you conditioned on your acceptance without modification of the terms, conditions, and notices contained herein (the "Terms"). Your use of [www.icevonline.com](http://www.icevonline.com) constitutes your agreement to all such Terms. Please read these terms carefully, and keep a copy of them for your reference.

### Privacy

Your use of [www.icevonline.com](http://www.icevonline.com) is subject to CEV Multimedia's Privacy Policy. Please review our Privacy Policy, which also governs the Site and informs users of our data collection practices.

### Your account

If you use this site, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. You may not assign or otherwise transfer your account to any other person or entity. You acknowledge that CEV Multimedia is not responsible for third party access to your account that results from theft or misappropriation of your account. CEV Multimedia and its associates reserve the right to refuse or cancel service, terminate accounts, or remove or edit content in our sole discretion.

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#### Indemnification

You agree, as permitted by law, to indemnify, defend and hold harmless CEV Multimedia, its officers, directors, employees, agents and third parties, for any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of your use of or inability to use the Site or services, any user postings made by you, your violation of any terms of this Agreement or your violation of any rights of a third party, or your violation of any applicable laws, rules or regulations. CEV Multimedia reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with CEV Multimedia in asserting any available defenses.

#### Liability disclaimer

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#### Termination/access restriction

CEV Multimedia reserves the right, in its sole discretion, to terminate your access to the Site and the related services or any portion thereof at any time, without notice. To the maximum extent permitted by law, this agreement is governed by the laws of the State of Texas and you hereby consent to the exclusive jurisdiction and venue of courts in Texas in all disputes arising out of or relating to the use of the Site. Use of the Site is unauthorized in any jurisdiction that does not give effect to all provisions of these Terms, including, without limitation, this section.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and CEV Multimedia as a result of this agreement or use of the Site. CEV Multimedia's performance of this agreement is subject to existing laws and legal process, and nothing contained in this agreement is in derogation of CEV Multimedia's right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Site or information provided to or gathered by CEV Multimedia with respect to such use. If any part of this agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect.

Unless otherwise specified herein, this agreement constitutes the entire agreement between the user and CEV Multimedia with respect to the Site and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between the user and CEV Multimedia with respect to the Site. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. It is the express wish to the parties that this agreement and all related documents be written in English.

## Changes to Terms

CEV Multimedia reserves the right, in its sole discretion, to change the Terms under which [www.icevonline.com](http://www.icevonline.com) is offered. The most current version of the Terms will supersede all previous versions. CEV Multimedia encourages you to periodically review the Terms to stay informed of our updates.

## Contact Us

CEV Multimedia welcomes your questions or comments regarding the Terms:

CEV Multimedia, Ltd.

1020 SE Loop 289

Lubbock, Texas 79404

Email Address:

[cev@cevmultimedia.com](mailto:cev@cevmultimedia.com)

Telephone number:

800-922-9965

Effective as of June 30, 2013

CEV Multimedia, Ltd. respects your privacy and is committed to its protection through our compliance with this policy. This policy represents the privacy practices used on our website, iCEVonline.com.

#### What Personal Information Do We Collect?

We collect a limited amount of personal information from our users, and we use this information solely for the purpose of providing the iCEV services. Specifically, we collect the following information from educators:

First Name

Last Name

Login Credentials for iCEV

Email Address

One Security Question/Answer Combination

We utilize educator's email addresses to deliver our newsletter which is delivered on a bi-weekly basis. The newsletter contains information regarding new features and new lessons added to iCEV. If educators wish to opt out of receiving these newsletters, each email we send contains an unsubscribe link in the footer.

For students who utilize iCEV, we collect the following information:

First Name

Last Name

Login Credentials for iCEV

Email Address (Not Required)

One Security Question/Answer Combination

In order to utilize iCEV, students must use an access code provided to them by their instructor. For districts utilizing third-party, single sign-on applications, such as Clever, the administrator of the application must choose to share this information with iCEV for us to gain access.

Please note that we recognize all data collected regarding teachers, students and administrators is the property of the district. Also, all data collected is utilized for educational purposes only.

#### What Do Teachers and Students Do On iCEV?

iCEV is a platform with pre-built courses and lessons that focus on Career and Technical Education subject areas. We have three account access types; each with unique roles:

Organization Administrator:

This is the individual(s) at the district that have been chosen by the district to maintain the account. This individual has access to: